

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATED TO THE REGULATION
5 AND TAXATION OF MARIJUANA; TRANSFERRING AUTHORITY OVER THE LICENSING, CULTIVATION,
6 AND SALE OF MEDICAL MARIJUANA TO THE DEPARTMENT OF REVENUE; ALLOWING CURRENT
7 MEDICAL MARIJUANA LICENSEES TO DOUBLE THEIR SQUARE FOOTAGE UNDER CULTIVATION;
8 CREATING A MARIJUANA-INFUSED PRODUCTS MANUFACTURING LICENSE; LIMITING THE
9 TETRAHYDROCANNABINOL IN MARIJUANA AND MARIJUANA-INFUSED PRODUCTS SOLD TO
10 CONSUMERS; PROVIDING RULEMAKING AUTHORITY; PROVIDING DEFINITIONS; AMENDING
11 SECTIONS 15-64-101, 15-64-102, 15-64-111, 16-12-101, 16-12-102, 16-12-104, 16-12-105, 16-12-106, 16-12-
12 107, 16-12-108, 16-12-109, 16-12-110, 16-12-111, 16-12-112, 16-12-201, 16-12-202, 16-12-203, 16-12-204,
13 16-12-205, 16-12-206, 16-12-207, 16-12-208, 16-12-209, 16-12-210, 16-12-301, 16-12-302, 18-7-101, 37-1-
14 136, 37-1-316, 37-3-203, 39-2-210, 39-2-313, 39-71-407, 41-5-216, 45-9-101, 45-9-102, 45-9-103, 45-9-110,
15 45-9-127, 45-9-203, 45-10-103, 45-10-107, 46-18-202, 50-46-303, 50-46-307, 50-46-319, AND 61-11-101,
16 MCA; AMENDING SECTION 56, INITIATIVE MEASURE NO. 190, APPROVED NOVEMBER 3, 2020;
17 REPEALING SECTIONS 16-12-401, 16-12-402, 16-12-403, 16-12-404, 16-12-405, 16-12-406, 16-12-407, 16-
18 12-408, 50-46-301, 50-46-302, 50-46-304, 50-46-305, 50-46-308, 50-46-309, 50-46-310, 50-46-311, 50-46-
19 312, 50-46-313, 50-46-317, 50-46-318, 50-46-320, 50-46-326, 50-46-327, 50-46-328, 50-46-329, 50-46-330,
20 50-46-331, 50-46-332, 50-46-339, 50-46-340, 50-46-341, 50-46-342, 50-46-343, 50-46-344, 50-46-345, 50-46-
21 346, AND 50-46-347, MCA; AND PROVIDING EFFECTIVE DATES."

22
23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

24
25 NEW SECTION. **Section 1. Purpose.** The purpose of [sections 1 through 14] is to provide a registry
26 identification card system for providing marijuana for the use of individuals with debilitating medical conditions,
27 including posttraumatic stress disorder, in order to alleviate the symptoms of the debilitating medical condition
28 that:

1 (1) allows individuals with debilitating medical conditions to purchase marijuana at the tax rate
2 specified in 15-64-102(1)(b)(ii);

3 (2) provides for a registry of individuals with debilitating medical conditions entitled to purchase
4 marijuana at the tax rate specified in 15-64-102(1)(b)(ii); and

5 (3) provides the process for obtaining a registry identification card.
6

7 **NEW SECTION. Section 2. Definitions.** As used in [sections 1 through 14], the following definitions
8 apply:

9 (1) "Debilitating medical condition" means:

10 (a) cancer, glaucoma, positive status for human immunodeficiency virus, or acquired immune
11 deficiency syndrome when the condition or disease results in symptoms that seriously and adversely affect the
12 patient's health status;

13 (b) cachexia or wasting syndrome;

14 (c) severe chronic pain that is a persistent pain of severe intensity that significantly interferes with
15 daily activities as documented by the patient's treating physician;

16 (d) intractable nausea or vomiting;

17 (e) epilepsy or an intractable seizure disorder;

18 (f) multiple sclerosis;

19 (g) Crohn's disease;

20 (h) painful peripheral neuropathy;

21 (i) a central nervous system disorder resulting in chronic, painful spasticity or muscle spasms;

22 (j) admittance into hospice care in accordance with rules adopted by the department; or

23 (k) posttraumatic stress disorder.

24 (2) "Department" means the department of public health and human services provided for in 2-15-
25 2201.

26 (3) "Marijuana" has the meaning provided in 16-12-102.

27 (4) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of the
28 resin extracted from any part of the marijuana plant.

1 (5) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, and
2 byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-infused
3 products.

4 (6) (a) "Marijuana-infused product" means a product that contains marijuana and is intended for use
5 by a means other than smoking.

6 (b) The term includes but is not limited to edible products, ointments, and tinctures.

7 (7) "Marijuana-infused products provider" has the meaning provided in 16-12-102.

8 (8) "Person" means an individual, partnership, association, company, corporation, limited liability
9 company, or organization.

10 (9) "Provider" has the meaning provided in 16-12-102.

11 (10) "Referral physician" means an individual who:

12 (a) is licensed under Title 37, chapter 3; and

13 (b) is the physician to whom a patient's treating physician has referred the patient for physical
14 examination and medical assessment.

15 (11) "Registered cardholder" or "cardholder" means a Montana resident with a debilitating medical
16 condition who has received and maintains a valid registry identification card.

17 (12) "Registry identification card" means a document issued by the department pursuant to [section 3]
18 that identifies an individual as a registered cardholder.

19 (13) (a) "Resident" means an individual who meets the requirements of 1-1-215.

20 (b) An individual is not considered a resident for the purposes of this part if the individual:

21 (i) claims residence in another state or country for any purpose; or

22 (ii) is an absentee property owner paying property tax on property in the state.

23 (14) "Standard of care" means, at a minimum, the following activities when undertaken in person or
24 through the use of telemedicine by a patient's treating physician or referral physician if the treating physician or
25 referral physician is providing written certification for a patient with a debilitating medical condition:

26 (a) obtaining the patient's medical history;

27 (b) performing a relevant and necessary physical examination;

28 (c) reviewing prior treatment and treatment response for the debilitating medical condition;

1 (d) obtaining and reviewing any relevant and necessary diagnostic test results related to the
2 debilitating medical condition;

3 (e) discussing with the patient and ensuring that the patient understands the advantages,
4 disadvantages, alternatives, potential adverse effects, and expected response to the recommended treatment;

5 (f) monitoring the response to treatment and possible adverse effects; and

6 (g) creating and maintaining patient records that remain with the physician.

7 (15) "Telemedicine" has the meaning provided in 33-22-138.

8 (16) "Treating physician" means an individual who:

9 (a) is licensed under Title 37, chapter 3; and

10 (b) has a bona fide professional relationship with the individual applying to be a registered cardholder.

11 (17) "Written certification" means a statement signed by a treating physician or referral physician that
12 meets the requirements of [section 5] and is provided in a manner that meets the standard of care.

13
14 **NEW SECTION. Section 3. Medical marijuana registry -- department responsibilities -- issuance**
15 **of cards -- confidentiality.** (1) The department shall establish and maintain a registry of persons who receive
16 registry identification cards under [sections 1 through 14].

17 (2) The department shall issue registry identification cards to Montana residents who have debilitating
18 medical conditions and who submit applications meeting the requirements of [sections 1 through 14].

19 (3) An individual who obtains a registry identification card is authorized to purchase marijuana at the
20 tax rate specified in 15-64-102(1)(b)(ii) up to the limit set forth in [section 7].

21 (4) (a) Registry identification cards issued pursuant to [sections 1 through 14] must:

22 (i) be laminated and produced on a material capable of lasting for the duration of the time period for
23 which the card is valid;

24 (ii) state the name, address, and date of birth of the registered cardholder;

25 (iii) state the date of issuance and the expiration date of the registry identification card;

26 (iv) contain a unique identification number; and

27 (v) contain other information that the department may specify by rule.

28 (b) Except as provided in subsection (4)(c), in addition to complying with subsection (4)(a), registry

1 identification cards issued pursuant to this part must:

2 (i) include a picture of the registered cardholder; and

3 (ii) be capable of being used to track registered cardholder purchases.

4 (c) (i) The department shall issue a temporary registry identification card on receipt of an application.

5 The cards are valid for 60 days and are exempt from the requirements of subsection (4)(b). Printing of the
6 temporary registry identification cards is exempt from the provisions of Title 18, chapter 7.

7 (ii) A card may be issued before an applicant's payment of the fee has cleared. The department shall
8 cancel the temporary registry identification card after 60 days and may not issue a permanent registry
9 identification card until the fee is paid.

10 (5) (a) The department shall review the information contained in an application or renewal submitted
11 pursuant to this part and shall approve or deny an application or renewal within 30 days of receiving the
12 application or renewal and all related application materials.

13 (b) If the department fails to act on a completed application within 30 days of receipt, the department
14 shall refund the fee paid by an applicant for a registry identification card.

15 (c) Applications that are not processed within 30 days of receipt remain active until the department
16 takes final action.

17 (d) The department shall issue a registry identification card within 5 days of approving an application
18 or renewal.

19 (6) Review of a rejection of an application or renewal may be conducted as a contested case hearing
20 pursuant to the provisions of the Montana Administrative Procedure Act.

21 (7) Registry identification cards expire 1 year after the date of issuance unless a physician has
22 provided a written certification stating that a card is valid for a shorter period of time.

23 (8) (a) A registered cardholder shall notify the department of any change in the cardholder's name,
24 address, or physician, or a change in the status of the cardholder's debilitating medical condition within 10 days
25 of the change.

26 (b) If a change occurs and is not reported to the department, the registry identification card is void.

27 (9) The department shall maintain a confidential list of individuals to whom the department has issued
28 registry identification cards. Individual names and other identifying information on the list must be confidential

1 and is not subject to disclosure, except to:

2 (a) authorized employees of the department as necessary to perform the official duties of the
3 department;

4 (b) authorized employees of state or local government agencies, including law enforcement agencies,
5 only as necessary to verify that an individual is a lawful possessor of a registry identification card;

6 (c) a judge, magistrate, or other authorized judicial officer in response to an order requiring disclosure;

7 (d) another person or entity when the information pertains to a cardholder who has given written
8 consent to the release and has specified:

9 (i) the type of information to be released; and

10 (ii) the person or entity to whom it may be released; and

11 (e) the department of revenue for the purpose of investigation and prevention of noncompliance with
12 tax laws, including but not limited to evasion, fraud, and abuse. The department of revenue and its employees
13 are subject to the confidentiality requirements of 15-64-111(1).

14

15 **NEW SECTION. Section 4. Individuals with debilitating medical conditions -- requirements --**
16 **minors -- limitations.** (1) Except as provided in subsections (2) through (5), the department shall issue a
17 registry identification card to an individual with a debilitating medical condition who submits the following, in
18 accordance with department rules:

19 (a) an application on a form prescribed by the department;

20 (b) an application fee or a renewal fee;

21 (c) the individual's name, street address, and date of birth;

22 (d) proof of Montana residency;

23 (e) a statement, on a form prescribed by the department, that the individual will not divert to any other
24 individual the marijuana or marijuana-infused products that the individual purchases for the individual's
25 debilitating medical condition;

26 (f) the name of the individual's treating physician or referral physician and the street address and
27 telephone number of the physician's office; and

28 (g) the written certification and accompanying statements from the individual's treating physician or

1 referral physician as required pursuant to [section 5].

2 (2) The department shall issue a registry identification card to a minor if the materials required under
3 subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health
4 care decisions:

5 (a) provides proof of legal guardianship and responsibility for health care decisions if the individual is
6 submitting an application as the minor's legal guardian with responsibility for health care decisions; and

7 (b) signs and submits a written statement that:

8 (i) the minor's treating physician or referral physician has explained to the minor and to the minor's
9 custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of
10 the use of marijuana;

11 (ii) indicates that the minor's custodial parent or legal guardian will be obtaining marijuana or
12 marijuana-infused products for the minor through the system of licensed providers and marijuana-infused
13 products providers; and

14 (iii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

15 (A) consents to the use of marijuana by the minor;

16 (B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of
17 marijuana by the minor; and

18 (C) agrees that the minor will use only marijuana-infused products and will not smoke marijuana; and

19 (c) pledges, on a form prescribed by the department, not to divert to any individual any marijuana
20 purchased for the minor's use in a marijuana-infused product.

21 (3) An application for a registry identification card for a minor must be accompanied by the written
22 certification and accompanying statements required pursuant to [section 5] from a second physician in addition
23 to the minor's treating physician or referral physician.

24 (4) An individual may not be a registered cardholder if the individual is in the custody of or under the
25 supervision of the department of corrections or a youth court.

26 (5) A registered cardholder may cultivate marijuana and manufacture marijuana-infused products as
27 allowed under Title 16, chapter 12.

28

1 NEW SECTION. **Section 5. Written certification -- accompanying statements.** (1) The written
2 certification provided by a physician must be made on a form prescribed by the department and signed and
3 dated by the physician. The written certification must:

4 (a) include the physician's name, license number, and office address and telephone number on file
5 with the board of medical examiners and the physician's business e-mail address, if any; and

6 (b) the name, date of birth, and debilitating medical condition of the patient for whom the physician is
7 providing written certification.

8 (2) A treating physician or referral physician who is providing written certification for a patient shall
9 provide a statement initialed by the physician that must:

10 (a) confirm that the physician is:

11 (i) the patient's treating physician and that the patient has been under the physician's ongoing medical
12 care as part of a bona fide professional relationship with the patient; or

13 (ii) the patient's referral physician;

14 (b) confirm that the patient suffers from a debilitating medical condition;

15 (c) describe the debilitating medical condition, why the condition is debilitating, and the extent to
16 which it is debilitating;

17 (d) confirm that the physician has assumed primary responsibility for providing management and
18 routine care of the patient's debilitating medical condition after obtaining a comprehensive medical history and
19 conducting a physical examination, whether in person or, in accordance with subsection (4), through the use of
20 telemedicine, that included a personal review of any medical records maintained by other physicians and that
21 may have included the patient's reaction and response to conventional medical therapies;

22 (e) describe the medications, procedures, and other medical options used to treat the condition;

23 (f) state that the medications, procedures, and other medical options have not been effective;

24 (g) confirm that the physician has reviewed all prescription and nonprescription medications and
25 supplements used by the patient and has considered the potential drug interaction with marijuana;

26 (h) state that the physician has a reasonable degree of certainty that the patient's debilitating medical
27 condition would be alleviated by the use of marijuana and that, as a result, the patient would be likely to benefit
28 from the use of marijuana;

- 1 (i) confirm that the physician has explained the potential risks and benefits of the use of marijuana to
- 2 the patient;
- 3 (j) list restrictions on the patient's activities due to the use of marijuana;
- 4 (k) specify the time period for which the use of marijuana would be appropriate, up to a maximum of 1
- 5 year;
- 6 (l) state that the physician will:
 - 7 (i) continue to serve as the patient's treating physician or referral physician; and
 - 8 (ii) monitor the patient's response to the use of marijuana and evaluate the efficacy of the treatment;
- 9 and
- 10 (m) contain an attestation that the information provided in the written certification and accompanying
- 11 statements is true and correct.
- 12 (3) A physician who is the second physician recommending marijuana for use by a minor shall submit:
 - 13 (a) a statement initialed by the physician that the physician conducted a comprehensive review of the
 - 14 minor's medical records as maintained by the treating physician or referral physician;
 - 15 (b) a statement that in the physician's professional opinion, the potential benefits of the use of
 - 16 marijuana would likely outweigh the health risks for the minor; and
 - 17 (c) an attestation that the information provided in the written certification and accompanying
 - 18 statements is true and correct.
 - 19 (4) A physician who is providing written certification through the use of telemedicine:
 - 20 (a) shall comply with the administrative rules adopted for telemedicine by the board of medical
 - 21 examiners provided for in 2-15-1731; and
 - 22 (b) may not use an audio-only visit unless the physician has first established a physician-patient
 - 23 relationship through an in-person encounter.
 - 24 (5) If the written certification states that marijuana should be used for less than 1 year, the department
 - 25 shall issue a registry identification card that is valid for the period specified in the written certification.
 - 26

27 **NEW SECTION. Section 6. Registry identification card to be exhibited at point of sale -- photo**

28 **identification required.** (1) A registered cardholder shall present the individual's registry identification card

1 when purchasing marijuana or marijuana-infused products.

2 (2) An individual who fails to display a valid registry identification card and a valid photo identification
3 at the point of sale:

4 (a) must be charged the adult-use tax rate in 15-64-102(1)(b)(ii); and

5 (b) if the individual is under 21 years of age, may not purchase marijuana or marijuana-infused
6 products.

7
8 **NEW SECTION. Section 7. Purchase limitations for registered cardholders -- legal protections.**

9 (1) (a) Except as provided in subsection (1)(b), a registered cardholder may purchase at the tax rate set forth in
10 15-64-102(1)(b)(ii) a maximum of:

11 (i) 5 ounces of marijuana a month, except that not more than 2.5 ounces a month may be in a
12 concentrated form; and

13 (ii) 1 ounce of marijuana a day, except that not more than 8 grams a day may be in a concentrated
14 form.

15 (b) (i) A registered cardholder may petition the department for an exception to the monthly limit on
16 purchases. The request must be accompanied by a confirmation from the physician who signed the
17 cardholder's written certification that the cardholder's debilitating medical condition warrants purchase of an
18 amount exceeding the monthly limit.

19 (ii) If the department approves an exception to the monthly limit, the approval must establish the
20 monthly amount of marijuana that the cardholder may purchase and the limit must be entered into the seed-to-
21 sale tracking system.

22 (2) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
23 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
24 department of labor and industry, solely for providing written certification for a patient with a debilitating medical
25 condition.

26 (3) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a
27 professional licensing board or the department of labor and industry if:

28 (a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or

1 (b) a physician violates the standard of care or other requirements of this part.

2 (4) Possession of or application for a registry identification card does not alone constitute probable
3 cause to search the person or individual or the property of the person or individual or otherwise subject the
4 person or individual or property of the person or individual possessing or applying for the card to inspection by
5 any government agency, including a law enforcement agency.

6

7 **NEW SECTION. Section 8. Unlawful conduct by cardholders -- penalties.** (1) The department
8 shall revoke and may not reissue the registry identification card of an individual who:

9 (a) is convicted of a drug offense; or

10 (b) allows another individual to be in possession of the individual's registry identification card.

11 (2) If no other penalty is specified under [sections 1 through 14], a registered cardholder who violates
12 [sections 1 through 14] is punishable by a fine not to exceed \$500 or by imprisonment in a county jail for a term
13 not to exceed 6 months, or both, unless otherwise provided in this part or unless the violation would constitute a
14 violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted pursuant to
15 the provisions of Title 45.

16 (3) Review of a department action imposing a fine, suspension, or revocation under this section must
17 be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act.

18

19 **NEW SECTION. Section 9. Fraudulent representation -- penalties.** (1) In addition to any other
20 penalties provided by law, an individual who fraudulently represents to a law enforcement official that the
21 individual is a registered cardholder is guilty of a misdemeanor punishable by imprisonment in a county jail for a
22 term not to exceed 1 year or a fine not to exceed \$1,000, or both.

23 (2) A physician who purposely and knowingly misrepresents any information required under [section
24 5] is guilty of a misdemeanor punishable by imprisonment in a county jail for a term not to exceed 1 year or a
25 fine not to exceed \$1,000, or both.

26 (3) An individual convicted under this section may not be licensed as a provider, marijuana-infused
27 products provider, or marijuana-infused product manufacturer under Title 16, chapter 12.

28

1 **NEW SECTION. Section 10. Confidentiality of registry information -- penalty.** (1) Except as
2 provided in 37-3-203, a person, including an employee or official of the department, commits the offense of
3 disclosure of confidential information related to registry information if the person knowingly or purposely
4 discloses confidential information in violation of this part.

5 (2) A person convicted of a violation of this section shall be fined not to exceed \$1,000 or imprisoned
6 in the county jail for a term not to exceed 6 months, or both.

7
8 **NEW SECTION. Section 11. Prohibitions on physician affiliation with providers and marijuana-**
9 **infused products providers -- sanctions.** (1) (a) A physician who provides written certifications may not:

10 (i) accept or solicit anything of value, including monetary remuneration, from a provider or marijuana-
11 infused products provider;

12 (ii) offer a discount or any other thing of value to a patient who uses or agrees to use a particular
13 provider or marijuana-infused products provider; or

14 (iii) examine a patient for the purposes of diagnosing a debilitating medical condition at a registered
15 premises or a testing laboratory.

16 (b) Subsection (1)(a) does not prevent a physician from accepting a fee for providing medical care to
17 a provider or marijuana-infused products provider if the physician charges the individual the same fee that the
18 physician charges other patients for providing a similar level of medical care.

19 (2) A provider or marijuana-infused products provider licensed pursuant to Title 16, chapter 12, may
20 not:

21 (a) arrange for a physician to conduct a physical examination or review of medical records required
22 under this part, either in the physician's office or at another location; or

23 (b) pay all or a portion of the costs for an individual to be seen by a physician for the purposes of
24 obtaining a written certification.

25 (3) If the department has cause to believe that a physician has violated this section, has violated a
26 provision of rules adopted pursuant to this part, or has not met the standard of care required under this part, the
27 department may refer the matter to the board of medical examiners provided for in 2-15-1731 for review
28 pursuant to 37-1-308 and shall also notify the department of revenue.

1 (4) A violation of this section constitutes unprofessional conduct under 37-1-316. If the board of
2 medical examiners finds that a physician has violated this section, the board shall restrict the physician's
3 authority to provide written certification for the use of marijuana. The board of medical examiners shall notify the
4 department of the sanction.

5 (5) If the board of medical examiners believes a physician's practices may harm the public health,
6 safety, or welfare, the board may summarily restrict a physician's authority to provide written certification for the
7 use of marijuana for a debilitating medical condition.

8 (6) (a) If the department of revenue has reason to believe a provider or marijuana-infused products
9 provider has violated this section, the department of revenue shall refer the matter to the law enforcement entity
10 and county attorney having jurisdiction where the provider or marijuana-infused products provider is doing
11 business and shall also inform the department.

12 (b) If a provider or marijuana-infused products provider is found to have violated the provisions of this
13 section, the department of revenue shall revoke the provider's or marijuana-infused products provider's license.
14 A person whose license has been revoked for a violation of this section is prohibited from reapplying for
15 licensure under Title 16, chapter 12.

16 (7) A law enforcement entity or county attorney who investigates a suspected violation of this section
17 shall report the results of the investigation to the department and the department of revenue.

18

19 **NEW SECTION. Section 12. Law enforcement authority.** Nothing in this chapter may be construed
20 to limit a law enforcement agency's ability to investigate unlawful activity in relation to an individual with a
21 registry identification card.

22

23 **NEW SECTION. Section 13. Legislative monitoring.** (1) The children, families, health, and human
24 services interim committee shall provide oversight of the department's activities pursuant to [sections 1 through
25 14].

26 (2) (a) The department shall periodically report to the children, families, health, and human services
27 interim committee and submit a report to the legislative clearinghouse, in accordance with 5-11-210, on persons
28 who are registered pursuant to [sections 1 through 14]. The report must include:

- 1 (i) the number of applications for registry identification cards and the number of registered
- 2 cardholders approved;
- 3 (ii) the nature of the debilitating medical conditions of the cardholders;
- 4 (iii) the number of registry identification cards revoked; and
- 5 (iv) the number of physicians providing written certification for registered cardholders and the number
- 6 of written certifications each physician has provided.
- 7 (b) The report may not provide any identifying information of cardholders or physicians.
- 8 (3) The report provided for in subsection (2) must also be provided to the revenue interim committee
- 9 provided for in 5-5-227.

10
11 **NEW SECTION. Section 14. Rulemaking authority -- fees.** The department may adopt rules only
12 as authorized in this section to specify:

- 13 (1) the manner in which the department will consider applications for registry identification cards for
- 14 individuals with debilitating medical conditions and renewal of registry identification cards;
- 15 (2) the acceptable forms of proof of Montana residency;
- 16 (3) notice and contested case hearing procedures for fines or registry identification card revocation,
- 17 suspension, or modification; and
- 18 (4) the fees for cardholders. The annual cardholder fee may not be less than \$20.

19
20 **NEW SECTION. Section 15. Medical marijuana state special revenue account -- operating**
21 **reserve -- transfer of excess funds.** (1) There is a medical marijuana state special revenue account within the
22 state special revenue fund established in 17-2-102.

- 23 (2) The account consists of:
 - 24 (a) money deposited in the account pursuant to [section 14];
 - 25 (b) the medical marijuana tax collected pursuant to 15-64-102(b)(ii); and
 - 26 (c) civil penalties collected under [sections 1 through 14].
- 27 (3) Except as provided in subsection (4), money in the account must be used by the department for
- 28 the purpose of administering the Montana Marijuana Regulation and Taxation Act and the development and

1 operation of the seed-to-sale tracking system provided for in 16-12-105.

2 (4) (a) At the end of each fiscal year, the department shall transfer funds in excess of a \$250,000
3 operating reserve to the mental health services special revenue account provided for in 53-21-1207.

4

5 **Section 16.** Section 15-64-101, MCA, is amended to read:

6 **"15-64-101. Definitions.** As used in this part, the following definitions apply:

7 (1) "Department" means the department of revenue provided for in 2-15-1301.

8 (2) "Marijuana product" means marijuana ~~as defined in 50-32-404~~ and marijuana-infused products as
9 those terms are defined in 50-46-302 16-12-102.

10 (3) "Marijuana product provider" means a provider or a marijuana-infused products provider as those
11 terms are defined in ~~50-46-302~~ 16-12-102.

12 (4) "Person" means an individual, firm, partnership, corporation, association, company, committee,
13 other group of persons, or other business entity, however formed.

14 (5) "Purchaser" means a person to whom a sale of a marijuana product is made.

15 (6) "Retail price" means the established price for which a marijuana product provider sells a marijuana
16 product to a purchaser before any discount or reduction.

17 (7) "Sale" or "sell" means any transfer of marijuana products for consideration, exchange, barter, gift,
18 offer for sale, or distribution in any manner or by any means."

19

20 **Section 17.** Section 15-64-102, MCA, is amended to read:

21 **"15-64-102. Tax on marijuana product providers -- medical and adult-use tax rates.** (1) (a)

22 There is a tax equal to the applicable percentage provided in subsection (1)(b) on a marijuana product
23 provider's gross sales of marijuana products for consumption, use, or resale in the regular course of business
24 under the provisions of Title 16, chapter 12, that is payable four times a year.

25 (b) ~~The percentage of tax on gross sales in subsection (1)(a) is as follows:~~

26 (i) ~~for gross sales during the calendar quarters beginning October 1, 2019, and ending September 30,~~
27 ~~2021, the amount is 4%; and~~

28 (ii) ~~for gross sales during the calendar quarters beginning October 1, 2021, and thereafter, the amount~~

1 is ~~2%~~.

2 (b) (i) Except as provided in subsection (1)(b)(ii), the tax in subsection (1)(a) is imposed at the adult-
3 use marijuana tax rate of 20% of the retail price and must be deposited in the marijuana compensation state
4 special revenue account provided for in 16-12-111.

5 (ii) For sales of marijuana products for use for a debilitating medical condition, as defined in 16-12-102,
6 to an individual in possession of and displaying a registry identification card issued pursuant to [sections 1
7 through 14], the tax in subsection (1)(a) is imposed at the medical marijuana rate of 2% of the retail price and
8 must be deposited in the medical marijuana state special revenue account provided for in [section 15].

9 (2) A marijuana product provider shall submit a quarterly report to the department listing the total
10 dollar amount of sales from any registered premises, as defined in ~~50-46-302~~ 16-12-102, operated by the
11 marijuana product provider, including dispensaries, and the percentage of sales subject to each tax rate listed
12 in subsection (1)(b). The report must be:

13 (a) made on forms prescribed by the department; and

14 (b) submitted within 15 days of the end of each calendar quarter.

15 (3) At the time the report is filed, the marijuana product provider shall submit:

16 (a) a payment equal to the percentage provided in subsection (1)(b)(i) of the total dollar amount of
17 sales; and

18 (b) a payment equal to the percentage provided in subsection (1)(b)(ii) of the total dollar amount of
19 sales.

20 ~~(4) The department shall deposit the taxes paid under this section in the medical marijuana state~~
21 ~~special revenue account provided for in 50-46-345.~~

22 ~~(5)(4)~~ The tax imposed by this part and related interest and penalties are a personal debt of the
23 person required to file a return from the time that the liability arises, regardless of when the time for payment of
24 the liability occurs.

25 ~~(6)(5)~~ For the purpose of determining liability for the filing of statements and the payment of taxes,
26 penalties, and interest owed under 15-64-103 through 15-64-106:

27 (a) the officer of a corporation whose responsibility it is to truthfully account for and pay to the state
28 taxes provided for in 15-64-103 through 15-64-106 and who fails to pay the taxes is liable to the state for the

1 taxes and the penalty and interest due on the amounts;

2 (b) each officer of the corporation, to the extent that the officer has access to the requisite records, is
3 individually liable along with the corporation for filing statements and for unpaid taxes, penalties, and interest
4 upon a determination that the officer:

5 (i) possessed the responsibility to file statements and pay taxes on behalf of the corporation; and

6 (ii) possessed the responsibility on behalf of the corporation for directing the filing of statements or the
7 payment of other corporate obligations and exercised that responsibility, resulting in the corporation's failure to
8 file statements required by this part or pay taxes due as required by this part;

9 (c) each partner of a partnership is jointly and severally liable, along with the partnership, for any
10 statements, taxes, penalties, and interest due while a partner;

11 (d) each member of a limited liability company that is treated as a partnership or as a corporation for
12 income tax purposes is jointly and severally liable, along with the limited liability company, for any statements,
13 taxes, penalties, and interest due while a member;

14 (e) the member of a single-member limited liability company that is disregarded for income tax
15 purposes is jointly and severally liable, along with the limited liability company, for any statements, taxes,
16 penalties, and interest due while a member; and

17 (f) each manager of a manager-managed limited liability company is jointly and severally liable, along
18 with the limited liability company, for any statements, taxes, penalties, and interest due while a manager.

19 ~~(7)~~(6) In determining which corporate officer is liable, the department is not limited to considering the
20 elements set forth in subsection ~~(6)(a)~~ (5)(a) to establish individual liability and may consider any other
21 available information.

22 ~~(8)~~(7) In the case of a bankruptcy, the liability of the individual remains unaffected by the discharge of
23 penalty and interest against the corporation. The individual remains liable for any statements and the amount of
24 taxes, penalties, and interest unpaid by the entity."
25

26 **Section 18.** Section 15-64-111, MCA, is amended to read:

27 **"15-64-111. Information -- confidentiality -- agreements with another state.** (1) (a) Except as
28 provided in subsections (2) through (5), in accordance with 15-30-2618 and 15-31-511, it is unlawful for an

1 employee of the department or any other public official or public employee to disclose or otherwise make known
2 information that is disclosed in a return or report required to be filed under this part or information that concerns
3 the affairs of the person making the return and that is acquired from the person's records, officers, or
4 employees in an examination or audit.

5 (b) This section may not be construed to prohibit the department from publishing statistics if they are
6 classified in a way that does not disclose the identity of a person making a return or the content of any
7 particular report or return. A person violating the provisions of this section is subject to the penalty provided in
8 15-30-2618 or 15-31-511 for violating the confidentiality of individual income tax or corporate income tax
9 information.

10 (2) (a) This section may not be construed to prohibit the department from providing information
11 obtained under this part to:

12 (i) the department of justice or law enforcement to be used for the purpose of investigation and
13 prevention of noncompliance, tax evasion, fraud, and abuse under this part; or

14 (ii) the department of public health and human services to be used for the purpose of investigation and
15 prevention of noncompliance, fraud, and abuse under ~~the Montana Medical Marijuana Act~~ sections 1 through
16 14.

17 (b) The department may enter into an agreement with the taxing officials of another state for the
18 interpretation and administration of the laws of their state that provide for the collection of a sales tax or use tax
19 in order to promote fair and equitable administration of the laws and to eliminate double taxation.

20 (c) In order to implement the provisions of this part, the department may furnish information on a
21 reciprocal basis to the taxing officials of another state if the information remains confidential under statutes
22 within the state receiving the information that are similar to this section.

23 (3) In order to facilitate processing of returns and payment of taxes required by this part, the
24 department may contract with vendors and may disclose data to the vendors. The data disclosed must be
25 administered by the vendor in a manner consistent with this section.

26 (4) (a) The officers charged with the custody of the reports and returns may not be required to
27 produce them or evidence of anything contained in them in an action or proceeding in a court, except in an
28 action or proceeding:

- 1 (i) to which the department is a party under the provisions of this part or any other taxing act; or
- 2 (ii) on behalf of a party to any action or proceedings under the provisions of this part or other taxes
- 3 when the reports or facts shown by the reports are directly involved in the action or proceedings.

4 (b) The court may require the production of and may admit in evidence only as much of the reports or
 5 of the facts shown by the reports as are pertinent to the action or proceedings.

6 (5) This section may not be construed to limit the investigative authority of the legislative branch, as
 7 provided in 5-11-106, 5-12-303, or 5-13-309."

8

9 **Section 19.** Section 16-12-101, MCA, is amended to read:

10 **"16-12-101. (Effective ~~October 1, 2021~~ January 1, 2022) Short title -- purpose.** (1) This chapter
 11 may be cited as the "Montana Marijuana Regulation and Taxation Act".

12 (2) The purpose of this chapter is to:

13 (a) provide for legal possession and use of limited amounts of marijuana legal for adults 21 years of
 14 age or older and individuals with debilitating medical conditions;

15 (b) provide for the licensure and regulation of commercial cultivation, manufacture, production,
 16 distribution, and sale of marijuana and marijuana-infused products;

17 (c) allow for limited cultivation, manufacture, delivery, and possession of marijuana as permitted by
 18 this chapter;

19 (d) eliminate the illicit market for marijuana and marijuana-infused products;

20 (e) prevent the distribution of marijuana sold under this chapter to persons under 21 years of age
 21 except for registered cardholders;

22 (f) ensure the safety of marijuana and marijuana-infused products;

23 (g) ensure the security of registered premises and ~~adult-use~~ dispensaries;

24 (h) establish reporting requirements for ~~adult-use~~ providers and ~~adult-use~~ marijuana-infused products
 25 providers;

26 (i) establish inspection requirements for registered premises, including data collection on energy use,
 27 chemical use, water use, and packaging waste to ensure a clean and healthy environment;

28 (j) provide for the testing of marijuana by licensed testing laboratories;

1 (k) give local governments a role in establishing standards for the cultivation, manufacture, and sale
2 of marijuana that protect the public health, safety, and welfare of residents within their jurisdictions;

3 (l) tax the sale of marijuana and marijuana-infused products to generate revenue for the state and
4 provide compensation for the economic and social costs of past and current marijuana cultivation, processing,
5 and use, by directing funding to:

6 (i) conservation programs to offset the use of water and soil in marijuana cultivation;

7 (ii) substance abuse treatment and prevention programs;

8 (iii) veterans' services and support;

9 (iv) health care;

10 (v) localities where marijuana is sold; and

11 (vi) the state general fund; and

12 (m) authorize courts to resentence persons who are currently serving sentences for acts that are
13 permitted under this chapter or for which the penalty is reduced by this chapter and to redesignate or expunge
14 those offenses from the criminal records of persons who have completed their sentences as set forth in this
15 chapter."

16

17 **Section 20.** Section 16-12-102, MCA, is amended to read:

18 **"16-12-102. (Effective October 1, 2021 January 1, 2022) Definitions.** As used in this chapter, the
19 following definitions apply:

20 ~~(1) "Adult use dispensary" means a registered premises from which a licensed adult use provider or~~
21 ~~adult use marijuana infused products provider is approved by the department to dispense marijuana or~~
22 ~~marijuana infused products to a consumer.~~

23 ~~(2) "Adult use marijuana infused products provider" means a person licensed by the department to~~
24 ~~manufacture and provide marijuana infused products for consumers as allowed by this chapter.~~

25 ~~(3) "Adult use provider" means a person licensed by the department to cultivate and process~~
26 ~~marijuana for consumers as allowed by this chapter.~~

27 ~~(4)~~(1) "Canopy" means the total amount of square footage dedicated to live plant production at a
28 registered premises consisting of the area of the floor, platform, or means of support or suspension of the plant.

1 ~~(5)~~(2) "Consumer" means a person 21 years of age or older who obtains or possesses marijuana or
2 marijuana-infused products for personal use or for use by persons who are at least 21 years of age, but not for
3 resale.

4 ~~(6)~~(3) "Correctional facility or program" means a facility or program that is described in 53-1-202 and
5 to which an individual may be ordered by any court of competent jurisdiction.

6 (4) "Debilitating medical condition" has the meaning provided in [section 2].

7 ~~(7)~~(5) "Department" means the department of revenue provided for in 2-15-1301.

8 (6) "Dispensary" means a registered premises from which a licensed provider or marijuana-infused
9 products provider is approved by the department to dispense marijuana or marijuana-infused products to a
10 consumer.

11 ~~(8)~~(7) (a) "Employee" means an individual employed to do something for the benefit of an employer.

12 (b) The term includes a manager, agent, or director of a partnership, association, company,
13 corporation, limited liability company, or organization.

14 (c) The term does not include a third party with whom a licensee has a contractual relationship.

15 ~~(9)~~(8) (a) "Financial interest" means a legal or beneficial interest that entitles the holder, directly or
16 indirectly through a business, an investment, or a spouse, parent, or child relationship, to 1% or more of the net
17 profits or net worth of the entity in which the interest is held.

18 (b) The term does not include interest held by a bank or licensed lending institution or a security
19 interest, lien, or encumbrance.

20 ~~(10)~~(9) – "Licensee" means a person holding a state license issued pursuant to this chapter.

21 ~~(11)~~(10) "Local government" means a county, a consolidated government, or an incorporated city or
22 town.

23 ~~(12)~~(11) "Manufacturing" means the production of marijuana concentrate.

24 ~~(13)~~(12) (a) "Marijuana" means all plant material from the genus Cannabis containing
25 tetrahydrocannabinol (THC) or seeds of the genus capable of germination.

26 (b) The term does not include hemp, including any part of that plant, including the seeds and all
27 derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a
28 delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or commodities or

1 products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral
2 administrations, food, drink, or other products.

3 ~~(14)~~(13) "Marijuana concentrate" means any type of marijuana product consisting wholly or in part of
4 the resin extracted from any part of the marijuana plant.

5 ~~(15)~~(14) "Marijuana derivative" means any mixture or preparation of the dried leaves, flowers, resin, or
6 byproducts of the marijuana plant, including but not limited to marijuana concentrates and marijuana-infused
7 products.

8 ~~(16)~~(15) "Marijuana-infused product" means a product that contains marijuana and is intended for use
9 by a consumer by a means other than smoking. The term includes but is not limited to edible products,
10 ointments, and tinctures.

11 (16) "Marijuana-infused products manufacturer" means a person licensed by the department to
12 manufacture marijuana-infused products for a licensed marijuana-infused products provider using marijuana
13 cultivated by the marijuana-infused products provider as allowed by this chapter.

14 (17) "Marijuana-infused products provider" means a person licensed by the department to manufacture
15 and provide marijuana-infused products for consumers and registered cardholders as allowed by this chapter.

16 ~~(17)~~(18) "Mature marijuana plant" means a harvestable female marijuana plant that is flowering.

17 ~~(18)~~(19) "Owner" means a principal officer, director, board member, or individual who has a financial
18 interest or voting interest of ~~10%~~ 5% or greater in ~~an adult-use a~~ dispensary, ~~adult-use provider, or adult-use~~
19 ~~marijuana-infused products provider, or marijuana-infused products manufacturer.~~

20 ~~(19)~~(20) "Paraphernalia" has the meaning provided for "drug paraphernalia" in 45-10-101.

21 ~~(20)~~(21) "Person" means an individual, partnership, association, company, corporation, limited liability
22 company, or organization.

23 (22) "Provider" means a person licensed by the department to cultivate and process marijuana for
24 consumers and registered cardholders as allowed by this chapter.

25 (23) "Registered cardholder" means a Montana resident with a debilitating medical condition who has
26 received and maintains a valid registry identification card.

27 ~~(24)~~(24) "Registered premises" means a location that is licensed pursuant to this chapter and includes:

28 (a) all enclosed public and private areas at the location that are used in the business operated

1 pursuant to a license, including offices, kitchens, restrooms, and storerooms; and

2 (b) if the department has specifically licensed a location for outdoor cultivation, production,
3 manufacturing, wholesale sale, or retail sale of ~~adult-use~~ marijuana and ~~adult-use~~ marijuana-infused products,
4 the entire unit of land that is created by subsection or partition of land that the licensee owns, leases, or has the
5 right to occupy.

6 (25) "Registry identification card" means a document issued by the department pursuant to [section 3]
7 that identifies an individual as a registered cardholder.

8 ~~(22)(26)~~ (a) "Resident" means an individual who meets the requirements of 1-1-215.

9 (b) An individual is not considered a resident for the purposes of this chapter if the individual:

10 (i) claims residence in another state or country for any purpose; or

11 (ii) is an absentee property owner paying property tax on property in Montana.

12 ~~(23)(27)~~ "Seedling" means a marijuana plant that has no flowers and is less than 12 inches in height
13 and 12 inches in diameter.

14 ~~(24)(28)~~ "State laboratory" means the laboratory operated by the department of public health and
15 human services to conduct environmental analyses.

16 ~~(25)(29)~~ "Testing laboratory" ~~has the meaning as provided in 50-46-302~~ means a qualified person,
17 licensed by the department, who meets the requirements of 16-12-206 and:

18 (a) provides testing of representative samples of marijuana and marijuana-infused products; and

19 (b) provides information regarding the chemical composition, the potency of a sample, and the
20 presence of molds, pesticides, or other contaminants in a sample.

21 ~~(26)(30)~~ "Unduly burdensome" means requiring such a high investment of money, time, or any other
22 resource or asset to achieve compliance that a reasonably prudent businessperson would not operate."

23

24 **Section 21.** Section 16-12-104, MCA, is amended to read:

25 **"16-12-104. (Effective October 1, 2024 January 1, 2022) Department responsibilities --**

26 **licensure.** (1) The department shall establish and maintain a registry of persons who receive licenses under
27 this chapter. The department shall issue:

28 (a) licenses:

1 (i) to persons who apply to operate as ~~adult-use~~ providers or ~~adult-use~~ marijuana-infused products
2 providers and who submit applications meeting the requirements of this chapter;

3 (ii) to persons who operate as marijuana-infused products manufacturers and who submit applications
4 meeting the requirements of this chapter; and

5 ~~(ii)(iii)~~ for ~~adult-use~~ dispensaries established by ~~adult-use~~ providers or ~~adult-use~~ marijuana-infused
6 products providers; and

7 (b) endorsements for manufacturing to ~~an adult-use~~ a provider or ~~an adult-use~~ a marijuana-infused
8 products provider that applies for a manufacturing endorsement and meets requirements established by the
9 department by rule.

10 (2) A person who obtains ~~an adult-use~~ a provider license, ~~adult-use~~ marijuana-infused products
11 provider license, or ~~adult-use~~ dispensary license or an employee of a licensed ~~adult-use~~ provider or ~~adult-use~~
12 marijuana-infused products provider is authorized to cultivate, manufacture, possess, sell, and transport
13 marijuana as allowed by this chapter.

14 (3) A person who obtains a marijuana-infused products manufacturer license or an employee of a
15 licensed marijuana-infused products manufacturer is authorized to manufacture, possess, and transport
16 marijuana as allowed by this chapter and charge a marijuana-infused products provider for manufacturing
17 services.

18 ~~(3)(4)~~ A person who obtains a testing laboratory license or an employee of a licensed testing
19 laboratory is authorized to possess, test, and transport marijuana as allowed by this chapter.

20 ~~(4)(5)~~ The department shall conduct criminal history background checks as required by ~~50-46-307~~
21 ~~and 50-46-308~~ 16-12-203 before issuing a license to a person named as a provider, ~~or~~ marijuana-infused
22 products provider, or marijuana-infused products manufacturer.

23 ~~(5)(6)~~ Licenses issued pursuant to this chapter must:

24 (a) be laminated and produced on a material capable of lasting for the duration of the time period for
25 which the license is valid;

26 (b) indicate whether ~~an adult-use~~ a provider or ~~an adult-use~~ marijuana-infused products provider has
27 an endorsement for manufacturing;

28 (c) state the date of issuance and the expiration date of the license; and

1 (d) contain other information that the department may specify by rule.

2 ~~(6)(7)~~ (a) The department shall make application forms available and begin accepting applications for
3 licensure and endorsement under this chapter on or before January 1, 2022.

4 (b) The department shall review the information contained in an application or renewal submitted
5 pursuant to this chapter and shall approve or deny an application:

6 (i) ~~within 30 days of receiving the application or renewal and all related application materials from an~~
7 ~~existing licensed provider or marijuana-infused products provider; and~~

8 (ii) ~~within 90 days of receiving the application and all related application materials from a new~~
9 applicant.

10 (c) If the department fails to act on a completed application within the time allowed under subsection
11 ~~(6)(b)~~ (7)(b), the department shall:

12 (i) reduce the cost of the licensing fee for a new applicant for licensure or endorsement or for a
13 licensee seeking renewal of a license by 5% each week that the application is pending; and

14 (ii) allow a licensee to continue operation until the department takes final action.

15 (d) Applications that are not processed within the time allowed under subsection ~~(6)(b)~~ (7)(b) remain
16 active until the department takes final action.

17 (e) (i) The department may not take final action on an application for a license or renewal of a license
18 until the department has completed a satisfactory inspection as required by this chapter and related
19 administrative rules.

20 (ii) Failure by the department to complete the required inspection within the time allowed under
21 subsection ~~(6)(b)~~ (7)(b) does not prevent an application from being considered complete for the purpose of
22 subsection ~~(6)(c)~~ (7)(c).

23 (f) The department shall issue a license or endorsement within 5 days of approving an application or
24 renewal.

25 ~~(7)(8)~~ Review of a rejection of an application or renewal may be conducted as a contested case
26 hearing pursuant to the provisions of the Montana Administrative Procedure Act.

27 ~~(8)(9)~~ Licenses and endorsements issued to adult-use providers, and adult-use marijuana-infused
28 products providers, and marijuana-infused products manufacturers must be renewed annually.

1 ~~(9)(10)~~ —The department shall provide the names and phone numbers of ~~adult-use providers, and~~
 2 ~~adult-use-marijuana-infused products providers, and marijuana-infused products manufacturers~~ and the city,
 3 town, or county where registered premises and testing laboratories are located to the public on the
 4 department's website. The department may not disclose the physical location or address of ~~an adult-use a~~
 5 ~~provider, adult-use-marijuana-infused products provider, adult-use dispensary,~~ marijuana-infused products
 6 manufacturer, or testing laboratory.

7 ~~(10)~~ The department may not prohibit an ~~adult-use provider, adult-use marijuana-infused products~~
 8 ~~provider, or adult-use dispensary licensee from operating at a shared location with a provider, marijuana-~~
 9 ~~infused products provider, or dispensary as defined in 50-46-302 if the provider, marijuana-infused products~~
 10 ~~provider, or dispensary is owned by the same person.~~

11 (11) After January 1, 2022, a dispensary may sell marijuana and marijuana-infused products to
 12 consumers at the adult-use marijuana tax rate set forth in 15-64-102(1)(b)(i) and registered cardholders at the
 13 medical marijuana tax rate set forth in 15-64-102(1)(b)(ii).

14 ~~(11)(12)~~ (a) ~~The~~ Except as provided in subsection (12)(b), the department may not adopt rules
 15 requiring a consumer to provide an adult-use a provider, adult-use-marijuana-infused products provider, or
 16 adult-use-dispensary licensee with identifying information other than identification to determine the consumer's
 17 age or require the recording of personal information about consumers other than information typically required
 18 in a retail transaction.

19 (b) The department shall adopt rules in accordance with 16-12-105 to ensure that a registered
 20 cardholder may not purchase more marijuana than permitted under [section 7] at the medical marijuana tax rate
 21 set forth in 15-64-102(1)(b)(ii)."

22
 23 **Section 22.** Section 16-12-105, MCA, is amended to read:

24 **"16-12-105. (Effective ~~October 1, 2021~~ January 1, 2022) Department responsibility to monitor**
 25 **and assess marijuana production, testing, sales, and license revocation.** (1) ~~(a)~~ The department shall
 26 implement a system for tracking marijuana, marijuana concentrate, and marijuana-infused products from either
 27 the seed or the seedling stage until the marijuana, marijuana concentrate, or marijuana-infused product is sold
 28 to a consumer. The system must:

1 ~~(i)(a)~~ ensure that the marijuana, marijuana concentrate, or marijuana-infused product cultivated,
2 manufactured, possessed, and sold under this chapter is not sold or otherwise provided to an individual who is
3 under 21 years of age and who is not a medical marijuana registered cardholder; ~~and~~

4 ~~(ii)(b)~~ ~~—be made available to adult-use providers, adult-use marijuana-infused products providers,~~
5 ~~adult-use dispensaries, marijuana-infused products manufacturers, and testing laboratories at no additional~~
6 ~~cost; and~~

7 (c) be capable of notifying providers, marijuana-infused products providers, and dispensaries, before
8 a sale is made, of the amount of marijuana a registered cardholder may purchase before reaching the
9 maximum monthly amount of marijuana allowed under [section 7].

10 ~~(b) The department may implement the same system that is used to track marijuana, marijuana~~
11 ~~concentrate, and marijuana-infused products pursuant to 50-46-304.~~

12 (2) The department shall assess applications for ~~an adult-use a provider, or adult-use~~ marijuana-
13 infused products provider, or marijuana-infused products manufacturer license to determine if a person with a
14 financial interest in the applicant meets any of the criteria established in 16-12-203 for denial of a license.

15 (3) Before issuing or renewing a license, the department shall inspect the proposed registered
16 premises of ~~an adult-use a provider, or adult-use~~ marijuana-infused products provider, or marijuana-infused
17 products manufacturer and shall inspect the property to be used to ensure an applicant for licensure or license
18 renewal is in compliance with this chapter. The department may not issue or renew a license if the applicant
19 does not meet the requirements of this chapter.

20 (4) (a) The department shall license providers and marijuana-infused products providers according to
21 a tiered canopy system.

22 (b) (i) The system shall include, at a minimum, the following license types:

23 (A) A micro tier canopy license allows for a canopy of up to 250 square feet at one registered
24 premises.

25 (B) A tier 1 canopy license allows for a canopy of up to 1,000 square feet at one registered premises.
26 A minimum of 500 square feet must be equipped for cultivation.

27 (C) A tier 2 canopy license allows for a canopy of up to 2,500 square feet at up to two registered
28 premises. A minimum of 1,100 square feet must be equipped for cultivation.

1 (D) A tier 3 canopy license allows for a canopy of up to 5,000 square feet at up to three registered
2 premises. A minimum of 2,600 square feet must be equipped for cultivation.

3 (E) A tier 4 canopy license allows for a canopy of up to 7,500 square feet at up to four registered
4 premises. A minimum of 5,100 square feet must be equipped for cultivation.

5 (F) A tier 5 canopy license allows for a canopy of up to 10,000 square feet at up to five registered
6 premises. A minimum of 7,750 square feet must be equipped for cultivation.

7 (G) A tier 6 canopy license allows for a canopy of up to 13,000 square feet at up to five registered
8 premises. A minimum of 10,250 square feet must be equipped for cultivation.

9 (H) A tier 7 canopy license allows for a canopy of up to 15,000 square feet at up to five registered
10 premises. A minimum of 13,250 square feet must be equipped for cultivation.

11 (I) A tier 8 canopy license allows for a canopy of up to 17,500 square feet at up to five registered
12 premises. A minimum of 15,250 square feet must be equipped for cultivation.

13 (J) A tier 9 canopy license allows for a canopy of up to 20,000 square feet at up to six registered
14 premises. A minimum of 17,775 square feet must be equipped for cultivation.

15 (K) A tier 10 canopy license allows for a canopy of up to 30,000 square feet at up to seven registered
16 premises. A minimum of 24,000 square feet must be equipped for cultivation.

17 (L) A tier 11 canopy license allows for a canopy of up to 45,000 square feet at up to seven registered
18 premises. A minimum of 36,000 square feet must be equipped for cultivation.

19 (M) A tier 12 canopy license allows for a canopy of up to 60,000 square feet at up to seven registered
20 premises. A minimum of 48,000 square feet must be equipped for cultivation.

21 (ii) As used in this subsection (4)(b), "equipped for cultivation" means that the space is either ready for
22 cultivation or in use for cultivation.

23 (c) ~~An adult-use A provider or adult-use-marijuana-infused products provide) provider~~ who has
24 reached capacity under the existing license may apply to advance to the next licensing tier. ~~The~~ Except as
25 provided in 16-12-201, the department:

26 (i) may increase a licensure level by only one tier at a time; and

27 (ii) shall conduct an inspection of the adult-use provider or adult-use marijuana-infused products
28 provider's registered premises and proposed premises within 30 days of receiving the application and before

1 approving the application.

2 ~~(d) The department may create additional licensing tiers by rule if a provider with a tier 10 canopy~~
3 ~~license petitions the department to create a new licensure level and:~~

4 (d) The department shall grant a provider's or marijuana-infused products provider's application to
5 advance to the next licensing tier if:

6 (i) (A) the producer or provider or marijuana-infused products provider demonstrates that the licensee
7 is using the full amount of canopy currently authorized; and

8 ~~(B)~~ (B) the tracking system shows the licensee is selling at retail cost at least 80% of the marijuana or
9 marijuana-infused products produced by the square footage of the licensee's existing license over the 2
10 previous quarters or the licensee can otherwise demonstrate to the department that there is a market for the
11 marijuana or marijuana-infused products it seeks to produce. Marijuana or marijuana-infused products sold at
12 wholesale to another licensed provider may not be applied to the 80% sales requirement for petitioning the
13 department to create a new licensure level; or

14 (ii) in accordance with 16-12-201.

15 (e) The department is authorized to create additional tiers ~~as necessary~~ by rule if a provider or
16 marijuana-infused products provider with a tier 12 canopy license petitions the department to create a new
17 licensure level, including an adjusted tier system to account for outdoor cultivation.

18 (f) The registered premises limitations for each tier of licensing apply only to registered premises at
19 which marijuana is cultivated. The limitations do not apply to the number of ~~adult-use dispensaries~~ ~~an adult-use~~
20 ~~a~~ provider or adult-use marijuana-infused products provider may have.

21 (g) The department shall require evidence that the licensee is able to successfully cultivate the
22 minimum amount of space allowed for the tier and sell the amount of marijuana produced by the minimum
23 cultivation level before allowing a licensee to move up a tier. Annual licensing fees must be prorated based on
24 the time licensed at a specific tier if less than 1 year.

25 (h) No person may be initially licensed greater than a tier 2 unless the person is purchasing a
26 business licensed at a tier higher than tier 2 ~~or the person is already licensed at higher than tier 2 under Title~~
27 ~~50, chapter 46, part 3, and is applying for the equivalent size tier under this chapter."~~

28

1 **Section 23.** Section 16-12-106, MCA, is amended to read:

2 **"16-12-106. Personal use and cultivation of marijuana -- penalties.** (1) Subject to the limitations in
3 16-12-108, the following acts are lawful and may not be an offense under state law or the laws of any local
4 government within the state, be a basis to impose a civil fine, penalty, or sanction, or be a basis to detain,
5 search, or arrest, or otherwise deny any right or privilege, or to seize or forfeit assets under state law or the
6 laws of any local government for a person who is 21 years of age or older or is a registered cardholder:

7 (a) possessing, purchasing, obtaining, using, ingesting, inhaling, or transporting 1 ounce or less of
8 marijuana, except that not more than 8 grams may be in a concentrated form;

9 (b) transferring, delivering, or distributing without consideration, to a person who is 21 years of age or
10 older, 1 ounce or less of marijuana, except that not more than 8 grams may be in a concentrated form;

11 (c) in or on the grounds of a private residence, possessing, planting, or cultivating up to four mature
12 marijuana plants and four seedlings and possessing, harvesting, drying, processing, or manufacturing the
13 marijuana, provided that:

14 (i) marijuana plants and any marijuana produced by the plants in excess of 1 ounce must be kept in a
15 locked space in or on the grounds of one private residence and may not be visible by normal, unaided vision
16 from a public place;

17 (ii) not more than twice the number of marijuana plants permitted under this subsection (1)(c) may be
18 cultivated in or on the grounds of a single private residence simultaneously;

19 (iii) a person growing or storing marijuana plants under this subsection (1)(c) must own the private
20 residence where the plants are cultivated and stored or obtain written permission to cultivate and store
21 marijuana from the owner of the private residence; and

22 (iv) no portion of a private residence used for cultivation of marijuana and manufacture of marijuana-
23 infused products for personal use may be shared with, rented, or leased to ~~an adult-use a provider, or an adult-~~
24 ~~use-marijuana-infused products provider,~~ marijuana-infused products manufacturer;

25 (d) assisting another person who is at least 21 years of age or is a registered cardholder in any of the
26 acts permitted by this section, including allowing another person to use one's personal residence for any of the
27 acts described in this section; and

28 (e) possessing, purchasing, using, delivering, distributing, manufacturing, transferring, or selling to

1 persons 18 years of age or older paraphernalia relating to marijuana.

2 (2) A person who cultivates marijuana plants that are visible by normal, unaided vision from a public
3 place in violation of subsection (1)(c)(i) is subject to a civil fine not exceeding \$250 and forfeiture of the
4 marijuana.

5 (3) A person who cultivates marijuana plants or stores marijuana outside of a locked space is subject
6 to a civil fine not exceeding \$250 and forfeiture of the marijuana.

7 (4) A person who smokes marijuana in a public place, other than in an area licensed for that activity
8 by the department, is subject to a civil fine not exceeding \$50.

9 (5) For a person who is under 21 years of age and is not a registered cardholder, possession, use,
10 ingestion, inhalation, transportation, delivery without consideration, or distribution without consideration of 1
11 ounce or less of marijuana is punishable by forfeiture of the marijuana and the underage person's choice
12 between:

13 (a) a civil fine not to exceed \$100; or

14 (b) up to 4 hours of drug education or counseling in lieu of the fine.

15 (6) For a person who is under 18 years of age and is not a registered cardholder, possession, use,
16 transportation, delivery without consideration, or distribution without consideration of marijuana paraphernalia is
17 punishable by forfeiture of the marijuana paraphernalia and the underage person's choice between:

18 (a) a civil fine not to exceed \$100; or

19 (b) up to 4 hours of drug education or counseling in lieu of the fine.

20 (7) Unless otherwise permitted under the provisions of ~~Title 50, chapter 46, part 3, this chapter~~, the
21 possession, production, delivery without consideration to a person 21 years of age or older, or possession with
22 intent to deliver more than 1 ounce but less than 2 ounces of marijuana or more than 8 grams but less than 16
23 grams of marijuana in a concentrated form is punishable by forfeiture of the marijuana and:

24 (a) for a first violation, the person's choice between a civil fine not exceeding \$200 or completing up to
25 4 hours of community service in lieu of the fine;

26 (b) for a second violation, the person's choice between a civil fine not exceeding \$300 or completing
27 up to 6 hours of community service in lieu of the fine;

28 (c) for a third or subsequent violation, the person's choice between a civil fine not exceeding \$500 or

1 completing up to 8 hours of community service in lieu of the fine; and

2 (d) for a person under 21 years of age, the person's choice between a civil fine not to exceed \$200 or
3 attending up to 8 hours of drug education or counseling in lieu of the fine.

4 (8) A person may not be denied adoption, custody, or visitation rights relative to a minor solely for
5 conduct that is permitted by this chapter.

6 (9) A person may not be denied access to or priority for an organ transplant or denied access to
7 health care solely for conduct that is permitted by this chapter.

8 (10) A person currently under parole, probation, or other state supervision or released awaiting trial or
9 other hearing may not be punished or otherwise penalized solely for conduct that is permitted by this chapter.

10 (11) A holder of a professional or occupational license may not be subjected to professional discipline
11 for providing advice or services arising out of or related to conduct that is permitted by this chapter solely on the
12 basis that marijuana is prohibited by federal law.

13 (12) It is the public policy of the state of Montana that contracts related to the operation of licensees be
14 enforceable."
15

16 **Section 24.** Section 16-12-107, MCA, is amended to read:

17 **"16-12-107. (Effective ~~October 1, 2021~~ January 1, 2022) Legal protections -- allowable amounts.**

18 (1) ~~An adult-use~~ A provider or ~~adult-use~~ adult-use marijuana-infused products provider may have the canopy allotment
19 allowed by the department. The canopy allotment is a cumulative total for all of the ~~adult-use~~ adult-use provider's or ~~adult-~~
20 ~~use~~ adult-use marijuana-infused products provider's registered premises.

21 (2) Except as provided in 16-12-108, a person licensed under this chapter may not be arrested,
22 prosecuted, penalized, or denied any right or privilege, including but not limited to civil fine or disciplinary action
23 by a professional licensing board or the department of labor and industry, solely because the person cultivates,
24 manufactures, possesses, or transports marijuana in the amounts allowed under this chapter.

25 (3) A person may not be arrested or prosecuted for possession, conspiracy as provided in 45-4-102,
26 or any other offense solely for being in the presence or vicinity of the use of marijuana and marijuana-infused
27 products as permitted under this chapter.

28 (4) Except as provided in 16-12-210, possession of or application for a license does not solely

1 constitute probable cause to search a person or the property of a person or otherwise subject a person or
2 property of a person to inspection by any governmental agency, including a law enforcement agency.

3 (5) The provisions of this section relating to protection from arrest or prosecution do not apply to a
4 person unless the person has obtained a license prior to an arrest or the filing of a criminal charge. It is not a
5 defense to a criminal charge that a person obtains a license after an arrest or the filing of a criminal charge.

6 (6) ~~An adult-use~~ A provider, or adult-use ~~marijuana-infused products provider, or~~ marijuana-infused
7 products manufacturer is presumed to be engaged in the use of marijuana as allowed by this chapter if the
8 person is in possession of an amount of marijuana that does not exceed the amount permitted under this
9 chapter."

10

11 **Section 25.** Section 16-12-108, MCA, is amended to read:

12 **"16-12-108. Limitations of act.** (1) This chapter does not permit:

13 (a) any individual to operate, navigate, or be in actual physical control of a motor vehicle, train,
14 aircraft, motorboat, or other motorized form of transport while under the influence of marijuana;

15 (b) consumption of marijuana while operating or being in physical control of a motor vehicle, train,
16 aircraft, motorboat, or other motorized form of transport while it is being operated;

17 (c) smoking marijuana while riding in the passenger seat within an enclosed compartment of a motor
18 vehicle, train, aircraft, motorboat, or other motorized form of transport while it is being operated;

19 (d) delivery or distribution of marijuana, with or without consideration, to a person under 21 years of
20 age;

21 (e) purchase, consumption, or use of marijuana by a person under 21 years of age;

22 (f) possession or transport of marijuana by a person under 21 years of age unless the underage
23 person is at least 18 years of age and is an employee of ~~an adult-use~~ a provider, adult-use
24 products provider, or adult-use ~~dispensary, or~~ marijuana-infused products manufacturer and engaged in work
25 activities;

26 (g) possession or consumption of marijuana or possession of marijuana paraphernalia:

27 (i) on the grounds of any property owned (i) leased by a school district, a public or private preschool,
28 school, or postsecondary school as defined in 20-5-402;

- 1 (ii) in a school bus;
- 2 (iii) in a health care facility as defined in 50-5-101; or
- 3 (iv) on the grounds of any correctional facility;
- 4 (h) smoking marijuana in a location where smoking tobacco is prohibited;
- 5 (i) consumption of marijuana in a public place, except as allowed by the department;
- 6 (j) conduct that endangers others;
- 7 (k) undertaking any task while under the influence of marijuana if doing so would constitute
- 8 negligence or professional malpractice; or
- 9 (l) performing solvent-based extractions on marijuana using solvents other than water, glycerin,
- 10 propylene glycol, vegetable oil, or food-grade ethanol unless licensed for this activity by the department.
- 11 (2) Nothing in this chapter may be construed to:
- 12 (a) require an employer to permit or accommodate conduct otherwise allowed by this chapter in any
- 13 workplace or on the employer's property;
- 14 (b) prohibit an employer from disciplining an employee for violation of a workplace drug policy or for
- 15 working while intoxicated by marijuana;
- 16 (c) prevent an employer from declining to hire, discharging, disciplining, or otherwise taking an
- 17 adverse employment action against an individual with respect to hire, tenure, terms, conditions, or privileges of
- 18 employment because of the individual's violation of a workplace drug policy or intoxication by marijuana while
- 19 working;
- 20 (d) permit a cause of action against an employer for wrongful discharge pursuant to 39-2-904 or
- 21 discrimination pursuant to 49-1-102;
- 22 (e) require a school or postsecondary school to allow a registered cardholder to participate in
- 23 extracurricular activities; or
- 24 (f) require a government medical assistance program, a group benefit plan that is covered by the
- 25 provisions of Title 2, chapter 18, an insurer covered by the provisions of Title 33, or an insurer as defined in 39-
- 26 71-116 to reimburse an individual for costs associated with the use of marijuana by a registered cardholder.
- 27 (3) Nothing in this chapter may be construed to prohibit a person from prohibiting or otherwise
- 28 regulating the consumption, cultivation, distribution, processing, sale, or display of marijuana, marijuana-infused

1 products, and marijuana paraphernalia on private property the person owns, leases, occupies, or manages,
2 except that a lease agreement executed after January 1, 2021, may not prohibit a tenant from lawfully
3 possessing and consuming marijuana by means other than smoking unless required by federal law or to obtain
4 federal funding.

5 ~~(4) Nothing in this chapter limits the rights, privileges, immunities, or defenses provided under Title~~
6 ~~50, chapter 46, part 3.~~

7 ~~(5)(4) An adult-use A provider, or adult-use marijuana-infused products provider, or marijuana-infused~~
8 ~~products manufacturer~~ who violates 15-64-103 or 15-64-104 is subject to revocation of the person's license
9 from the date of the violation until a period of up to 1 year after the department of revenue certifies compliance
10 with 15-64-103 or 15-64-104."

11

12 **Section 26.** Section 16-12-109, MCA, is amended to read:

13 **"16-12-109. (Effective October 1, 2024 January 1, 2022) Unlawful conduct by licensees --**

14 **penalties.** (1) The department shall revoke and may not reissue a license or endorsement belonging to an
15 individual who:

- 16 (a) is convicted of a felony drug offense;
- 17 (b) allows another individual not authorized or lawfully allowed to be in possession of the individual's
- 18 license; or
- 19 (c) fails to cooperate with the department concerning an investigation or inspection if the individual is
- 20 licensed and cultivating marijuana, engaging in manufacturing, or manufacturing marijuana-infused products.

21 (2) The department shall revoke a license issued under this chapter if the licensee:

- 22 (a) purchases marijuana from an unauthorized source in violation of this chapter;
- 23 (b) sells marijuana, marijuana concentrate, or marijuana-infused products to a person the licensee
- 24 knows or should know is under 21 years of age;
- 25 (c) operates a carbon dioxide or hydrocarbon extraction system without obtaining a manufacturing
- 26 endorsement; or
- 27 (d) transports marijuana or marijuana-infused products outside of Montana, unless allowed by federal
- 28 law.

1 (3) A licensee who violates the advertising restrictions imposed under 16-12-211 is subject to:

2 (a) a written warning for the first violation;

3 (b) a 5-day license suspension or a \$500 fine for a second violation;

4 (c) a 5-day license suspension or a \$1,000 fine for a third violation;

5 (d) a 30-day license suspension or a \$2,500 fine for a fourth violation; and

6 (e) a license revocation for a fifth violation.

7 (4) Except for the license revocations required under this section, a licensee shall choose whether to
8 pay a fine or be subject to a license suspension when a penalty is imposed under this section.

9 (5) A licensee whose license is revoked may not reapply for licensure for 3 years from the date of the
10 revocation.

11 (6) If no other penalty is specified under this chapter, ~~an adult-use provider, or adult-use marijuana-~~
12 infused products provider, or marijuana-infused products manufacturer who violates this chapter is punishable
13 by a civil fine not to exceed \$500, unless otherwise provided in this chapter or unless the violation would
14 constitute a violation of Title 45. An offense constituting a violation of Title 45 must be charged and prosecuted
15 pursuant to the provisions of Title 45.

16 (7) Review of a department action imposing a fine, suspension, or revocation under this chapter must
17 be conducted as a contested case hearing under the provisions of the Montana Administrative Procedure Act."

18

19 **Section 27.** Section 16-12-110, MCA, is amended to read:

20 **"16-12-110. (Effective ~~October 1, 2021~~ January 1, 2022) Legislative monitoring.** (1) The revenue
21 interim committee shall provide oversight of the department's activities pursuant to this chapter, including but
22 not limited to monitoring of:

23 (a) the number of licensees;

24 (b) issues related to the cultivation, manufacture, sale, testing, and use of marijuana; and

25 (c) the development, implementation, and use of the seed-to-sale tracking system established in
26 accordance with 16-12-105.

27 (2) The revenue interim committee shall identify issues likely to require future legislative attention and
28 develop legislation to present to the next regular session of the legislature.

1 (3) (a) The department shall periodically report to the revenue interim committee and submit a report
 2 to the legislative clearinghouse, as provided in 5-11-210, on persons who are licensed ~~or registered~~ pursuant to
 3 16-12-203. The report must include:

- 4 (i) the number of ~~adult-use providers, adult-use marijuana-infused products providers, and adult-use~~
 5 dispensaries, and marijuana-infused products manufacturers licensed pursuant to this chapter;
- 6 (ii) the number of endorsements approved for manufacturing;
- 7 (iii) the number of licenses revoked; and
- 8 (iv) the amount of marijuana cultivated and sold pursuant to this chapter.

9 (b) The report may not provide any identifying information of ~~adult-use providers, adult-use marijuana-~~
 10 infused products providers, or adult-use dispensaries, or marijuana-infused products manufacturers.

11 (4) The report on inspections required under 16-12-210 must include, at a minimum, the following
 12 information for both announced and unannounced inspections:

- 13 (a) the number of inspections conducted, by canopy licensure tier;
- 14 (b) the number of ~~adult-use providers, or adult-use marijuana-infused products providers, or~~
 15 marijuana-infused products manufacturers that were inspected more than once during the year;
- 16 (c) the number of inspections that were conducted because of complaints made to the department;
- 17 and
- 18 (d) the types of enforcement actions taken as a result of the inspections.

19 (5) The reports provided for in this section must also be provided to the transportation interim
 20 committee provided for in 5-5-233."

21

22 **Section 28.** Section 16-12-111, MCA, is amended to read:

23 **"16-12-111. (Effective October 1, 2021) Marijuana compensation special revenue account. (1)**

24 There is a dedicated marijuana compensation state special revenue account within the state special revenue
 25 fund established in 17-2-102, to be administered by the department.

26 (2) Marijuana sales taxes collected under the provisions of ~~part 4 of this chapter~~ 15-64-102(1)(b)(i)
 27 must, in accordance with the provisions of 17-2-124, be deposited into the account along with any interest and
 28 income earned on the account.

1 (3) Funds deposited into the account must be transferred in the following amounts to provide funding
2 as set out below:

3 (a) 4.125% of the funds to be deposited into the nongame wildlife account established in 87-5-121;

4 (b) 4.125% of the funds to be deposited into the state park account established in 23-1-105(1);

5 (c) 4.125% of the funds to be deposited into the trails and recreational facilities account established in
6 23-2-108;

7 (d) 37.125% of the funds to be deposited to the credit of the department of fish, wildlife, and parks to
8 be used solely as funding for wildlife habitat in the same manner as funding generated under 87-1-242(3) and
9 used pursuant to 87-1-209;

10 (e) 10.5% to the state general fund; and

11 (f) the remainder in the subaccounts provided for in this subsection (3)(f). There are subaccounts in
12 the marijuana compensation special revenue account established by subsection (1). Funding deposited into this
13 account under subsection (2) is further deposited into subaccounts to be used only as follows:

14 (i) 10% of the funds to be deposited into a subaccount to be administered by the department of public
15 health and human services to provide grants to existing agencies and not-for-profit organizations, whether
16 government or community-based, to increase access to evidence-based low-barrier drug addiction treatment,
17 prioritizing medically proven treatment and overdose prevention and reversal methods and public or private
18 treatment options with an emphasis on reintegrating recipients into their local communities, to support overdose
19 prevention education, and to support job placement, housing, and counseling for those with substance use
20 disorders;

21 (ii) 10% of the funds to be deposited into a subaccount to be administered by the department of
22 commerce for distribution to the local government representing the locality where the retail sales occurred;

23 (iii) 10% of the funds to be deposited into a subaccount to be administered by the veterans' affairs
24 division of the department of military affairs to provide services and assistance for all Montana veterans and
25 surviving spouses and dependents; and

26 (iv) 10% of the funds to be deposited into a subaccount to be administered by the Montana department
27 of public health and human services to administer medicaid rate increases that provide for a wage increase to
28 health care workers who provide direct medicaid-funded home and community health services for elderly and

1 disabled persons.

2 (4) (a) Funds transferred from the accounts and subaccounts provided in subsection (3) may be used
3 only to increase revenue for the purposes specified and may not be used to supplant other sources of revenue
4 used for these purposes.

5 (b) Funds deposited into the account provided in subsection (1) may be used only to increase
6 revenue to each special revenue account or subaccount set forth in subsection (3) and may not be used to
7 supplant other sources of revenue for these purposes."

8

9 **Section 29.** Section 16-12-112, MCA, is amended to read:

10 **"16-12-112. (Effective ~~October 1, 2021~~ January 1, 2022) Rulemaking authority -- fees.** (1) The
11 department may adopt rules to implement and administer this chapter, including:

12 (a) the manner in which the department will consider applications for licenses and endorsements and
13 renewal of licenses and endorsements;

14 (b) the acceptable forms of proof of Montana residency;

15 (c) the procedures for obtaining fingerprints for the fingerprint-based and name-based background
16 checks required under 16-12-203;

17 (d) the security and operating requirements for ~~adult-use~~ dispensaries;

18 (e) the security and operating requirements for manufacturing, including but not limited to
19 requirements for:

20 (i) safety equipment;

21 (ii) extraction methods, including solvent-based and solvent-free extraction; and

22 (iii) post-processing procedures;

23 (f) notice and contested case hearing procedures for fines or license and endorsement revocations,
24 suspensions, or modifications;

25 (g) implementation of a system to allow the tracking of marijuana and marijuana-infused products as
26 required by 16-12-105;

27 (h) labeling standards that protect public health by requiring the listing of pharmacologically active
28 ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD) and other cannabinoid

1 content, the THC and other cannabinoid amount in milligrams per serving, the number of servings per package,
2 and quantity limits per sale to comply with the allowable possession amount;

3 (i) requirements that packaging and labels may not be made to be attractive to children, required
4 warning labels, and that marijuana and marijuana-infused products be sold in resealable, child-resistant
5 packaging to protect public health as provided in 16-12-208;

6 (j) requirements and standards for the testing and retesting of marijuana and marijuana-infused
7 products, including testing of samples collected during the department's inspections of registered premises;

8 (k) the amount of variance allowable in the results of raw testing data that would warrant a
9 departmental investigation of inconsistent results as provided in 16-12-202;

10 (l) requirements and standards to prohibit or limit marijuana, marijuana-infused products, and
11 marijuana accessories that are unsafe or contaminated;

12 (m) the activities that constitute advertising in violation of 16-12-211;

13 (n) requirements and incentives to promote renewable energy, reduce water usage, and reduce
14 packaging waste to maintain a clean and healthy environment in Montana; and

15 (o) the fees for endorsements for manufacturing, testing laboratories, additional canopy licensure tiers
16 created in accordance with 16-12-105, and the fingerprint-based and name-based background checks required
17 under 16-12-203. The fees and other revenue collected through the taxes paid under ~~16-12-404~~ 15-64-102, civil
18 penalties imposed pursuant to this chapter, and the licensing fees established by rule and in 16-12-201 must be
19 sufficient to offset the expenses of administering this chapter but may not exceed the amount necessary to
20 cover the costs to the department of implementing and enforcing this chapter.

21 (2) The department may not adopt any rule or regulation that is unduly burdensome or undermines
22 the purposes of this chapter.

23 (3) The department may consult or contract with other public agencies in carrying out its duties under
24 this chapter."

25

26 **Section 30.** Section 16-12-201, MCA, is amended to read:

27 **"16-12-201. (Effective October 1, 2021) Licensing of providers, marijuana-infused products**
28 **providers, and dispensaries, and marijuana-infused products manufacturers for adult use -- license**

1 **transfer from department of public health and human services.** (1) No later than October 1, 2021, the
2 department shall promulgate rules and regulations to administer and enforce this chapter ~~and shall begin~~
3 ~~accepting applications for and issuing licenses.~~ The rules may not be unduly burdensome.

4 ~~For the first 12 months after the department begins to receive applications, the department shall only~~
5 ~~accept applications from and issue licenses to providers, marijuana-infused products providers, and~~
6 ~~dispensaries licensed under Title 50, chapter 46, part 3, that are in good standing with the department of public~~
7 ~~health and human services and in compliance with this chapter and rules adopted by the department.~~

8 (2) (a) Beginning on October 1, 2021, a provider or marijuana-infused products provider that was
9 licensed as of November 1, 2020, and is in good standing with the department of public health and human
10 services may apply for license transfer to the department by submitting information on a form published by the
11 department that must include an option for each licensee to elect up to double the amount of square feet under
12 cultivation by:

13 (i) notifying the department of the canopy license tier that the provider or marijuana-infused products
14 provider intends to cultivate; and

15 (ii) submitting a fee equal to the difference between the license fee for the provider's or marijuana-
16 infused products provider's current canopy license tier and the fee for the canopy license tier for the new
17 amount of square footage under cultivation, prorated for the amount of time left before the license must be
18 renewed.

19 (b) Failure to submit a license transfer application under this subsection (2) will result in the
20 cancellation of the provider or marijuana-infused products provider's license on January 1, 2021, with the
21 department refunding the license fee as prorated to the remaining term before expiration.

22 (c) The department may not deny the license transfer application of a licensee that is in good standing
23 with the department of public health and human services and in compliance with this chapter and rules adopted
24 by the department pursuant to this chapter as of the date the application is submitted.

25 (3) (a) On December 31, 2021, the department of public health and human services shall transfer to
26 the department the existing license for any provider or marijuana-infused products provider that submits an
27 application pursuant to subsection (2).

28 (b) Licenses transferred pursuant to this subsection (3) must be accepted and administered by the

1 department of revenue until those licenses expire or are canceled, reduced, modified, revoked, or renewed by
2 the department.

3 (c) A licensee that moved into a larger canopy license tier may begin cultivation of the additional
4 square feet on January 1, 2021.

5 (4) No later than April 1, 2022, the department shall authorize licensees transferred pursuant to
6 subsections (2) and (3) to sell marijuana to consumers at the adult-use marijuana tax rate set forth in 15-64-
7 102(1)(b)(i) under the provider's, marijuana-infused products provider's, or dispensary's existing license.

8 (5) On October 1, 2022, the department shall begin accepting applications:

9 (a) from and issuing licenses to applicants that were not licensed to provide medical marijuana with
10 the department of public health and human services on or before November 1, 2020; and

11 (b) for licenses for marijuana-infused products manufacturing."

12
13 **Section 31.** Section 16-12-202, MCA, is amended to read:

14 **"16-12-202. (Effective ~~October 1, 2021~~ January 1, 2022) Testing laboratories -- licensing --**
15 **inspection -- dual licensure -- state laboratory responsibility.** (1) (a) The state laboratory shall license
16 testing laboratories to perform the testing required under 16-12-206 and 16-12-209.

17 (b) (i) The state laboratory shall inspect a testing laboratory before issuing or renewing a license and
18 may not issue or renew a license if the applicant does not meet the requirements of 16-12-206 and this section.

19 (ii) The state laboratory may not issue a temporary license while an inspection is pending.

20 (iii) Inspections conducted under this section must include the review provided for in ~~50-46-311(1)(b)~~
21 16-12-206(1)(b).

22 (2) The state laboratory shall:

23 (a) use the criteria established under ~~50-46-311~~ 16-12-206 in evaluating and approving licenses
24 issued under this section;

25 (b) ~~use the criteria established under 50-46-304(6) to~~ establish and enforce standard operating
26 procedures and testing standards for testing laboratories to ensure that consumers and registered cardholders
27 receive consistent and uniform information about the potency and quality of the marijuana and marijuana-
28 infused products they receive; ~~and~~

- 1 ~~(e) investigate inconsistent test results using the procedure provided for in 50-46-304(7).~~
- 2 (c) consult with independent national or international organizations that establish testing standards for
- 3 marijuana and marijuana-infused products;
- 4 (d) require testing laboratories to follow uniform standards and protocols for the samples accepted for
- 5 testing and the processes used for testing the samples; and
- 6 (e) track and analyze the raw data for the results of testing conducted by testing laboratories to
- 7 ensure that the testing laboratories are providing consistent and uniform results.

8 (3) If an analysis of raw testing data indicates that licensees are providing test results that vary among
9 testing laboratories by an amount determined by the state laboratory by rule, the department shall investigate
10 the inconsistent results and determine within 60 days the steps the testing laboratories must take to ensure that
11 each testing laboratory provides accurate and consistent results.

12 (4) If the analysis of raw testing data indicates a testing laboratory may be providing inconsistent
13 results, the state laboratory shall ~~suspend the testing laboratory's license until additional testing determines~~
14 ~~whether the results are consistent~~ investigate the results and determine within 60 days whether the testing
15 laboratory shall take action to ensure accurate and consistent results and whether a suspension is necessary
16 while those actions are taken.

17 (5) The state laboratory shall revoke a testing laboratory's license upon a determination that the
18 laboratory is:

- 19 (a) providing test results that are fraudulent; or
- 20 (b) providing test results without having:
 - 21 (i) the equipment needed to test marijuana, marijuana concentrates, or marijuana-infused products; or
 - 22 (ii) the equipment required under this chapter to conduct the tests for which the laboratory is providing
 - 23 results.

24 ~~(6) A revocation under this section is subject to judicial review.~~

25 ~~(7) The state laboratory:~~

26 ~~(a) may license a testing laboratory to perform both the testing required under this chapter and under~~
27 ~~Title 50, chapter 46; and~~

28 ~~(b) shall use the same administrative rules for testing laboratories licensed under this chapter and~~

1 under Title 50, chapter 46."

2

3 **Section 32.** Section 16-12-203, MCA, is amended to read:

4 **"16-12-203. (Effective ~~October 1, 2021~~ January 1, 2022) Provider types -- manufacturing license**

5 **-- requirements -- limitations -- activities.** (1) (a) Subject to subsections (1)(b) and (3), the department shall

6 issue a license to or renew a license for a person who is applying to be ~~an adult-use a provider, or adult-use~~

7 ~~marijuana-infused products provider, or~~ marijuana-infused products manufacturer if the person submits to the

8 department:

9 (i) the person's name, date of birth, and street address on a form prescribed by the department;

10 (ii) proof that the person is a Montana resident;

11 (iii) fingerprints meeting the requirements for a fingerprint-based background check by the department

12 of justice and the federal bureau of investigation:

13 (A) with the application for initial licensure; and

14 (B) every 3 years thereafter;

15 (iv) a statement, on a form prescribed by the department, that the person will not divert to any other

16 person the marijuana that the person cultivates or the marijuana-infused products that the person manufactures

17 for consumers, unless the marijuana or marijuana-infused products are sold to another ~~adult-use~~ provider or as

18 part of a sale of a business as allowed under this section;

19 (v) the street address of the location at which marijuana, marijuana concentrates, or marijuana-

20 infused products will be cultivated or manufactured; and

21 (vi) a fee as determined by the department not to exceed the costs of required background checks and

22 associated administrative costs of processing the license.

23 (b) If the person to be licensed consists of more than one individual, the names of all owners must be

24 submitted along with the fingerprints and date of birth of each.

25 (2) The department shall conduct:

26 (a) a fingerprint-based background check in association with an application for initial licensure and

27 every 3 years thereafter; and

28 (b) a name-based background check in association with an application for initial licensure and each

1 year thereafter except years that an applicant is required to submit fingerprints for a fingerprint-based
2 background check.

3 (3) The department may not license a person under this chapter if the person or an owner:

4 (a) has a felony conviction within the past 5 years involving fraud, deceit, ~~or embezzlement,~~ or ~~for~~
5 distribution of drugs to a minor ~~within the past 5 years~~ and, after an investigation, the department finds that the
6 applicant has not been sufficiently rehabilitated as to warrant the public trust;

7 (b) is in the custody of the department of corrections or a youth court;

8 (c) has been convicted of a violation under 16-12-302;

9 (d) has resided in Montana for less than 1 year; or

10 (e) is under 18 years of age.

11 (4) Marijuana for use pursuant to this chapter must be cultivated and manufactured in Montana ~~until~~
12 ~~federal law allows for the interstate distribution of marijuana.~~

13 (5) Except as provided in 16-12-209, ~~an adult-use a provider, or adult-use marijuana-infused products~~
14 ~~provider, or marijuana-infused products manufacturer~~ shall:

15 (a) prior to selling marijuana or marijuana-infused products, submit samples to testing laboratories
16 pursuant to this chapter and administrative rules;

17 (b) allow the department to collect samples of marijuana or marijuana-infused products during
18 inspections of registered premises for testing as provided by the department by rule;

19 (c) participate as required by the department by rule in a seed-to-sale tracking system established by
20 the department pursuant to 16-12-105; and

21 (d) obtain the license from the department of agriculture if required by 80-7-106 for the adult-use
22 provider or adult-use marijuana-infused products provider that sells live plants as part of a sale of the adult-use
23 provider's business. An adult-use provider or adult-use marijuana-infused products provider required to obtain a
24 nursery license is subject to the inspection requirements of 80-7-108.

25 (6) (a) Except as provided in 16-12-205, a person licensed under this section may cultivate marijuana
26 and manufacture marijuana-infused products for use by consumers only at one of the following locations:

27 (i) a property that is owned by the ~~adult-use provider, or adult-use~~ marijuana-infused products
28 ~~provider, or marijuana-infused products manufacturer;~~ or

1 (ii) with written permission of the property owner, a property that is rented or leased by the ~~adult-use~~
2 provider, ~~or adult-use-marijuana-infused products provider,~~ or marijuana-infused products manufacturer.

3
4 (b) Except as provided in 16-12-205, no portion of the property used for cultivation of marijuana or
5 manufacture of marijuana-infused products or marijuana concentrate may be shared with or rented or leased to
6 another ~~adult-use provider, adult-use-marijuana-infused products provider,~~ marijuana-infused products
7 manufacturer, or testing laboratory.

8 (7) A licensed ~~adult-use provider or adult-use-marijuana-infused products provider~~ may:

9 (a) in accordance with rules adopted by the department:

10 (i) operate ~~adult-use dispensaries;~~ and

11 (ii) engage in manufacturing;

12 (b) employ employees to cultivate marijuana, manufacture marijuana concentrates and marijuana-
13 infused products, and dispense and transport marijuana and marijuana-infused products;

14 (c) provide a small amount of marijuana, marijuana concentrate, or marijuana-infused product
15 cultivated or manufactured on the registered premises to a licensed testing laboratory or the department of
16 agriculture;

17 (d) sell the ~~adult-use provider's~~ business, including live plants, inventory, material assets, and all
18 licenses in accordance with rules adopted by the department; and

19 ~~(e) hold a provider or marijuana-infused products provider license issued pursuant to Title 50, chapter~~
20 ~~46, part 3.~~

21 (e) sell marijuana and marijuana-infused products to consumers at the tax rate in 15-64-102(1)(b)(i)
22 and to registered cardholders at the tax rate in 15-64-102(1)(b)(ii).

23 (8) (a) Except as provided in subsection (8)(b), ~~an adult-use a~~ provider or ~~adult-use~~ marijuana-
24 infused products provider:

25 (i) shall sell marijuana the ~~adult-use provider~~ has cultivated or marijuana products derived from
26 marijuana the ~~adult-use-marijuana-infused products provider~~ has cultivated for at least 50% of the provider's
27 total annual sales;

28 (ii) may sell marijuana or marijuana-infused products to another ~~adult-use provider~~ for subsequent

1 resale for up to 50% of the ~~adult-use~~ provider's total annual sales;

2 (iii) may contract or otherwise arrange for another party that is licensed to process the ~~adult~~ provider's
3 or ~~adult~~ marijuana-infused products provider's marijuana into marijuana-infused products or marijuana
4 concentrates and return the marijuana-infused products or marijuana concentrates to the ~~adult-use~~ provider for
5 sale; and

6 (iv) except as allowed pursuant to 16-12-207, may not open a dispensary or allow for any on-site use
7 before obtaining the required license or before the department has completed the inspection required under this
8 chapter unless permitted to do so pursuant to 16-12-207.

9 (b) The department may adjust the percentages set forth in subsection (8)(a) for an individual license
10 holder based on unforeseen circumstances leading to the loss of plants or products.

11 (9) (a) A licensed marijuana-infused products manufacturer may process marijuana cultivated by a
12 provider or marijuana-infused products provider into marijuana-infused products or marijuana concentrates and
13 return the marijuana-infused products or marijuana concentrates back to the same provider or marijuana-
14 infused products provider for sale in accordance with subsection (8), 16-12-204, and 16-12-205.

15 (b) A marijuana-infused products manufacturer may not:

16 (i) cultivate marijuana; or

17 (ii) sell marijuana to consumers."

18

19 **Section 33.** Section 16-12-204, MCA, is amended to read:

20 **"16-12-204. (Effective ~~October 1, 2021~~ January 1, 2022) ~~Adult-use marijuana-infused~~ Marijuana-**

21 **infused products provider -- marijuana-infused products manufacturer.** (1) A person licensed as an ~~adult-~~
22 ~~use~~ a marijuana-infused products provider or marijuana-infused products manufacturer shall:

23 (a) prepare marijuana-infused products at a registered premises; and

24 (b) use equipment that is used exclusively for the manufacture and preparation of marijuana-infused
25 products.

26 (2) ~~An adult-use~~ A marijuana-infused products provider:

27 (a) may cultivate marijuana only for the purpose of making marijuana-infused products; and

28 (b) may not provide a consumer with marijuana in a form that may be used for smoking unless the

1 ~~adult-use-marijuana-infused products provider~~ is also a licensed ~~adult-use~~ provider.

2 (3) All registered premises on which marijuana-infused products are manufactured must meet any
3 applicable standards set by a local board of health for a retail food establishment as defined in 50-50-102.

4 (4) Marijuana-infused products may not be considered a food or drug for the purposes of Title 50,
5 chapter 31."

6

7 **Section 34.** Section 16-12-205, MCA, is amended to read:

8 **"16-12-205. (Effective ~~October 1, 2021~~ January 1, 2022) Contracted services.** (1) ~~An adult-use~~ A
9 marijuana-infused products provider may contract with another ~~adult-use-marijuana-infused products provider~~
10 or marijuana-infused products manufacturer to perform extraction or manufacturing services for the provider.
11 ~~The adult-use marijuana-infused products provider who is providing the services must hold a provider license~~
12 ~~for at least a tier 1 canopy.~~

13 (2) ~~An adult-use~~ A marijuana-infused products provider who has contracted for services under this
14 section may deliver the marijuana to be used for extraction or manufacturing or the provider or manufacturer
15 who is contracted to provide the services may pick up and transport the marijuana.

16 (3) ~~An adult-use~~ A marijuana-infused products provider or marijuana-infused products manufacturer
17 who offers extraction or manufacturing services may not keep any marijuana-infused product or plant material
18 from the extraction or manufacturing or transfer or sell the marijuana-infused product or plant material to
19 another provider who has contracted for similar services with the same provider except as permitted under 16-
20 12-203."

21

22 **Section 35.** Section 16-12-206, MCA, is amended to read:

23 **"16-12-206. (Effective ~~October 1, 2021~~ January 1, 2022) Testing laboratories -- licensing**
24 **inspections.** (1) (a) The state laboratory shall license testing laboratories that meet the requirements of this
25 part. The state laboratory shall inspect a testing laboratory before issuing or renewing a license. The state
26 laboratory may not issue a temporary license while an inspection is pending.

27 (b) Inspections conducted for licensure or renewal of licensure must include a review of an applicant's
28 or testing laboratory's:

- 1 (i) physical premises where testing will be conducted;
- 2 (ii) instrumentation;
- 3 (iii) protocols for sampling, handling, testing, reporting, security and storage, and waste disposal;
- 4 (iv) raw data on tests conducted by the laboratory, if the inspection is for renewal of a license; and
- 5 (v) vehicles used for transporting marijuana or marijuana-infused products samples for testing
- 6 purposes.

7 ~~(1)(2)~~ A testing laboratory licensed pursuant to Title 50, chapter 46, part 3, shall:

- 8 (a) measure the tetrahydrocannabinol, tetrahydrocannabinolic acid, cannabidiol, and cannabidiolic
- 9 acid content of marijuana and marijuana-infused products; and
- 10 (b) test marijuana and marijuana-infused products for pesticides, solvents, moisture levels, mold,
- 11 mildew, and other contaminants. A testing laboratory may transport samples to be tested.

12 ~~(2)(3)~~ The analytical laboratory services provided by the department of agriculture pursuant to 80-1-

13 104 may be used for the testing provided for in this section.

14 ~~(3)(4)~~ A person with a financial interest in a licensed testing laboratory may not have a financial

15 interest in any entity involved in the cultivation of marijuana or manufacture of a marijuana-infused product or

16 marijuana concentrate ~~for whom testing services are performed.~~

17 (5) Each licensed testing laboratory shall employ a scientific director who is responsible for ensuring

18 the achievement and maintenance of quality standards of practice. The scientific director must have the

19 following minimum qualifications:

- 20 (a) a doctorate in chemical or biological sciences from a college or university accredited by a national
- 21 or regional certifying authority and a minimum of 2 years of postdegree laboratory experience; or
- 22 (b) a master's degree in chemical or biological sciences from a college or university accredited by a
- 23 national or regional certifying authority and a minimum of 4 years of postdegree laboratory experience.

24 (6) All owners and employees of a testing laboratory shall submit fingerprints to the state laboratory to

25 facilitate a fingerprint and background check by the department of justice and the federal bureau of

26 investigation. A testing laboratory may not be owned, operated, or staffed by a person who has been convicted

27 of a felony offense.

28 (7) To qualify for licensure, a testing laboratory shall demonstrate that:

- 1 (a) staff members are proficient in operation of the laboratory equipment; and
- 2 (b) the laboratory:
 - 3 (i) maintains the equipment and instrumentation required by rule;
 - 4 (ii) has all equipment and instrumentation necessary to certify results that meet the quality assurance
 - 5 testing requirements established by rule, including the ability to certify results at the required level of sensitivity;
 - 6 (iii) meets insurance and bonding requirements established by rule;
 - 7 (iv) has the capacity and ability to serve rural areas of the state; and
 - 8 (v) has passed a relevant proficiency program that demonstrates it is able to meet all testing
 - 9 requirements. The state laboratory shall establish by rule the proficiency programs considered relevant for the
 - 10 purposes of this section.

- 11 ~~(4)(8)~~ Except as provided in 16-12-209, a testing laboratory shall conduct tests of:
 - 12 (a) samples of marijuana, marijuana concentrate, and marijuana-infused products submitted by ~~adult-~~
 - 13 ~~use-providers and adult-use-marijuana-infused products providers~~ pursuant to 16-12-209 and related
 - 14 administrative rules prior to sale of the marijuana or marijuana-infused products;
 - 15 (b) samples of marijuana or marijuana-infused products collected by the department during
 - 16 inspections of registered premises; and
 - 17 (c) samples submitted by consumers."

18

19 **Section 36.** Section 16-12-207, MCA, is amended to read:

20 "**16-12-207. (Effective ~~October 1, 2021~~ January 1, 2022) Licensing as privilege -- criteria.** (1) ~~An~~

21 ~~adult-use-A~~ provider license, ~~adult-use-marijuana-infused products provider~~ license, ~~adult-use-dispensary~~

22 ~~license, marijuana-infused products manufacturer license, or endorsement for manufacturing is a privilege that~~

23 the state may grant to an applicant and is not a right to which an applicant is entitled. In making a licensing

24 decision, the department shall consider:

- 25 (a) the qualifications of the applicant; and
- 26 (b) the suitability of the proposed registered premises.

27 (2) The department may deny or revoke a license based on proof that the applicant made a knowing

28 and material false statement in any part of the original application or renewal application.

1 (3) The department may deny ~~an adult-use a~~ provider license, ~~adult-use~~ marijuana-infused products
 2 provider license, ~~adult-use~~ dispensary license, marijuana-infused products manufacturer license, or
 3 endorsement for manufacturing if the applicant's proposed registered premises is situated within a zone of a
 4 locality where an activity related to the use of marijuana conflicts with an ordinance, a certified copy of which
 5 has been filed with the department.

6 (4) (a) The department may deny a license for ~~an adult-use a~~ provider, ~~adult-use~~ marijuana-infused
 7 products provider, ~~or adult-use~~ dispensary, or marijuana-infused products manufacturer, or an endorsement for
 8 manufacturing if the applicant's proposed registered premises:

- 9 (i) is not approved by local building, health, or fire officials; or
- 10 (ii) is within 500 feet of and on the same street as a building used exclusively as a church, synagogue,
 11 or other place of worship or as a school or postsecondary school other than a commercially operated school,
 12 unless the locality allows for a reduced distance. This distance must be measured in a straight line from the
 13 center of the nearest entrance of the place of worship or school to the nearest entrance of the licensee's
 14 premises.

15 (b) For the purposes of this subsection (4), "school" and "postsecondary school" have the meanings
 16 provided in 20-5-402.

17 ~~(5) An adult-use provider, adult-use marijuana-infused products provider, or adult-use dispensary~~
 18 ~~licensee may operate at a shared location with a provider, marijuana-infused products provider, or dispensary~~
 19 ~~as defined in 50-46-302 if the provider, marijuana-infused products provider, or dispensary is owned by the~~
 20 ~~same person."~~

21

22 **Section 37.** Section 16-12-208, MCA, is amended to read:

23 **"16-12-208. (Effective ~~October 1, 2021~~ January 1, 2022) Restrictions.** (1) ~~An adult-use A~~ provider,
 24 ~~or adult-use~~ marijuana-infused products provider, or marijuana-infused products manufacturer may not cultivate
 25 marijuana or manufacture marijuana concentrates or marijuana-infused products in a manner that is visible
 26 from the street or other public area without the use of binoculars, aircraft, or other optical aids.

27 (2) ~~An adult-use A~~ provider, ~~or adult-use~~ marijuana-infused products provider, or marijuana-infused
 28 products manufacturer may not cultivate, process, test, or store marijuana at any location other than the

1 registered premises approved by the department and within an enclosed area that is secured in a manner that
2 prevents access by unauthorized persons.

3 (3) ~~An adult-use~~ A provider, or adult-use-marijuana-infused products provider, or marijuana-infused
4 products manufacturer shall secure the provider's inventory and equipment during and after operating hours to
5 deter and prevent theft of marijuana.

6 (4) ~~An adult-use~~ A provider, or adult-use-marijuana-infused products provider, or marijuana-infused
7 products manufacturer shall make the registered premises, books, and records available to the department for
8 inspection and audit under 16-12-210 during normal business hours.

9 (5) ~~An adult-use~~ A provider, or adult-use-marijuana-infused products provider, or marijuana-infused
10 products manufacturer may not allow a person under 18 years of age to volunteer or work for the licensee.

11 (6) Marijuana and marijuana-infused products sold at a dispensary are regulated and sold on the
12 basis of the concentration of tetrahydrocannabinol in the products and not by weight.

13 (a) Except as provided in subsection (6)(b), for the purposes of this chapter, a single package is
14 limited to:

15 (i) for marijuana sold as flower, 1 ounce of usable marijuana. The total potential psychoactive
16 tetrahydrocannabinol of marijuana flower may not exceed 35%;

17 (ii) for a marijuana-infused product sold as a capsule, no more than 100 milligrams of
18 tetrahydrocannabinol for each capsule and no more than 800 milligrams of tetrahydrocannabinol for each
19 package;

20 (iii) for a marijuana-infused product sold as a tincture, no more than 800 milligrams of
21 tetrahydrocannabinol;

22 (iv) for a marijuana-infused product sold as an edible or a food product, no more than 100 milligrams of
23 tetrahydrocannabinol. A single serving of an edible marijuana-infused product may not exceed 10 milligrams of
24 tetrahydrocannabinol.

25 (v) for a marijuana-infused product sold as a topical product, a concentration of no more than 6%
26 tetrahydrocannabinol and no more than 800 milligrams of tetrahydrocannabinol for each package;

27 (vi) for a marijuana-infused product sold as a suppository or transdermal patch, no more than 100
28 milligrams of tetrahydrocannabinol for each suppository or transdermal patch and no more than 800 milligrams

1 of tetrahydrocannabinol for each package; and

2 (vii) for any other marijuana-infused product, no more than 800 milligrams of tetrahydrocannabinol.

3 (b) A dispensary may sell marijuana or marijuana-infused products having higher
4 tetrahydrocannabinol potency levels than described in subsection (6) to registered cardholders.

5 ~~(6)(7)~~ Edible marijuana-infused candy may not be sold in shapes or packages that are attractive to
6 children or that are easily confused with commercially sold candy that does not contain marijuana.

7 ~~(7)(8)~~ (a) Marijuana or a marijuana-infused product must be sold or otherwise transferred in
8 resealable, child-resistant packaging designed to be significantly difficult for children under 5 years of age to
9 open and not difficult for adults to use properly.

10 (b) Subsection ~~(7)(a)~~ (8)(a) does not apply to marijuana consumed on the premises where it is sold, if
11 permitted by department rule.

12 ~~(8)(9)~~ ~~An adult-use~~ A provider or ~~adult-use~~ marijuana-infused products provider may not sell or
13 otherwise transfer tobacco or alcohol from a registered premises."
14

15 **Section 38.** Section 16-12-209, MCA, is amended to read:

16 **"16-12-209. (Effective ~~October 1, 2021~~ January 1, 2022) Testing of marijuana and marijuana-**
17 **infused products.** (1) ~~An adult-use~~ A provider or ~~adult-use~~ marijuana-infused products provider may not sell
18 marijuana or marijuana-infused products until the marijuana or products have been tested by a testing
19 laboratory or the department of agriculture and meet the requirements of ~~50-46-326~~ this section.

20 (2) ~~An adult-use~~ A provider or ~~adult-use~~ marijuana-infused products provider shall submit material
21 that has been collected in accordance with a sampling protocol established by the state laboratory by rule. The
22 protocol must address the division of marijuana and marijuana-infused products into batch sizes for testing.
23 Each batch must be tested in the following categories:

- 24 (a) flower;
- 25 (b) concentrate; and
- 26 (c) marijuana-infused product.

27 (3) The state laboratory shall ~~apply the same rules adopted pursuant to Title 50, chapter 46, part 3,~~
28 adopt rules regarding the types of tests, inspections, analysis, and certification that must be performed to

- 1 ensure product safety and consumer protection to marijuana and marijuana products tested pursuant to this
- 2 chapter. Rules must include but are not limited to testing for:
- 3 (a) the potency of the cannabinoids present; and
- 4 (b) the presence of contaminants.
- 5 (4) The testing laboratory shall conduct a visual inspection of each batch to determine the presence of
- 6 levels of foreign matter, debris, insects, and visible mold.
- 7 (5) The state laboratory shall establish by rule the acceptable levels of moisture, pesticides, residual
- 8 solvents, mold, mildew, foreign matter, debris, insects, and other contaminants that marijuana-infused products
- 9 may contain.
- 10 (6) The testing laboratory shall:
- 11 (a) issue a certificate of analysis certifying the test results; and
- 12 (b) report the results to the seed-to-sale tracking system as set forth in 16-12-105.
- 13 ~~(4)(7)~~ An adult-use A provider or adult-use-marijuana-infused products provider may request that
- 14 material that has failed to pass the required tests be retested in accordance with the rules adopted by the state
- 15 laboratory providing for retesting parameters and requirements.
- 16 ~~(5)(8)~~ Marijuana or a marijuana-infused product must include a label indicating that the marijuana or
- 17 marijuana-infused product has been tested.
- 18 (9) The testing standards adopted pursuant to this section may be developed by the state laboratory."

20 **Section 39.** Section 16-12-210, MCA, is amended to read:

21 **"16-12-210. (Effective ~~October 1, 2021~~ January 1, 2022) Inspections -- procedures -- prohibition**

22 **on inspector affiliation with licensees.** (1) The department shall conduct unannounced inspections of

23 registered premises.

24 (2) (a) The department shall inspect annually each registered premises.

25 (b) The department may collect samples during the inspection of a registered premises and submit

26 the samples to all registered testing laboratories for testing as provided by the department by rule.

27 (3) (a) Each ~~adult-use provider, and adult-use-marijuana-infused products provider, and marijuana-~~

28 infused products manufacturer shall keep a complete set of records necessary to show all transactions with

1 consumers, marijuana providers, marijuana-infused products providers, and marijuana-infused products
2 manufacturers, as applicable. The records must be open for inspection by the department or state laboratory,
3 as appropriate, and state or local law enforcement agencies during normal business hours.

4 (b) Each testing laboratory shall keep:

5 (i) a complete set of records necessary to show all transactions with ~~adult-use providers, and adult-~~
6 ~~use-marijuana-infused products providers, and~~ marijuana-infused products manufacturers; and

7 (ii) all data, including instrument raw data, pertaining to the testing of marijuana and marijuana-infused
8 products.

9 (c) The records and data required under this subsection (3) must be open for inspection by the
10 department and state or local law enforcement agencies during normal business hours.

11 (d) The department may require ~~an adult-use a~~ provider, ~~adult-use~~ marijuana-infused products
12 provider, marijuana-infused products manufacturer, or testing laboratory to furnish information that the
13 department considers necessary for the proper administration of this chapter.

14 (4) (a) Registered premises, including any places of storage, where marijuana is cultivated,
15 manufactured, sold, stored, or tested are subject to entry by the department or state or local law enforcement
16 agencies for the purpose of inspection or investigation during normal business hours.

17 (b) If any part of the registered premises consists of a locked area, the provider, ~~or~~ marijuana-infused
18 products provider, or marijuana-infused products manufacturer shall make the area available for inspection
19 immediately upon request of the department or state or local law enforcement officials.

20 (5) The state laboratory shall conduct the inspections of testing laboratories required under this
21 section.

22 (6) A provider or marijuana-infused products provider shall maintain records showing the names and
23 registry identification numbers of registered cardholders to whom mature plants, seedlings, marijuana, or
24 marijuana-infused products were sold or transferred and the quantities sold or transferred to each cardholder.

25 ~~(5)(7)~~ If the department conducts an inspection because of a complaint against a licensee or
26 registered premises and does not find a violation of this chapter, the department shall give the licensee a copy
27 of the complaint with the name of the complainant redacted.

28 ~~(6)(8)~~ The department may not hire or contract with a person to be an inspector if the person has

1 worked during the previous 4 years for a Montana business or facility operating under this chapter or ~~Title 50,~~
2 ~~chapter 46, part 3 that operated as a provider or marijuana-infused products provider under the former medical~~
3 marijuana program administered by the department of public health and human services.

4 ~~(7)(9)~~ In addition to any other penalties provided under this chapter, the department may revoke,
5 suspend for up to 1 year, or refuse to renew a license or endorsement issued under this chapter if, upon
6 inspection and subsequent notice to the licensee, the department finds that any of the following circumstances
7 exist:

8 (a) a cause for which issuance of the license or endorsement could have been rejected had it been
9 known to the department at the time of issuance;

10 (b) a violation of an administrative rule adopted to carry out the provisions of this chapter; or

11 (c) noncompliance with any provision of this chapter.

12 ~~(8)(10)~~ —The department may suspend or modify a license or endorsement without advance notice
13 upon a finding that presents an immediate threat to the health, safety, or welfare of consumers, employees of
14 the licensee, or members of the public.

15 ~~(9)(11)~~ —Review of a department action imposing a suspension, revocation, or other modification
16 under this chapter must be conducted as a contested case hearing under the provisions of the Montana
17 Administrative Procedure Act.

18 ~~(10)(12)~~ The department shall establish a training protocol to ensure uniform application and
19 enforcement of the requirements of this chapter.

20 ~~(11)(13)~~ The department shall report biennially to the revenue interim committee concerning the results
21 of inspections conducted under this section. The report must include the information required under 16-12-110."

22

23 **Section 40.** Section 16-12-301, MCA, is amended to read:

24 **"16-12-301. ~~(Effective October 1, 2021)~~ Local government authority to regulate.** (1) (a) To protect
25 the public health, safety, or welfare, a local government may by ordinance or resolution regulate ~~an adult-use a~~
26 provider, or adult-use marijuana-infused products provider, or marijuana-infused products manufacturer that
27 operates within the local government's jurisdictional area. The regulations may include but are not limited to
28 inspections of registered premises and testing laboratories in order to ensure compliance with any public

1 health, safety, and welfare requirements established by the department or the local government.

2 (b) A local government may not adopt ordinances or regulations that are unduly burdensome.

3 (2) The qualified electors of an incorporated municipality, county, or consolidated city-county may
4 request an election on whether to prohibit by ordinance ~~adult-use~~ dispensaries from being located within the
5 jurisdiction of the local government by filing a petition in accordance with 7-5-131 through 7-5-135 and 7-5-137.

6 (3) (a) An election held pursuant to this section must be called, conducted, counted, and canvassed
7 in accordance with Title 13, chapter 1, part 4.

8 (b) Except as provided in subsection (3)(c), an election held pursuant to this section may not be held
9 within 70 days before or after a primary, general, or regular local election.

10 (c) An election pursuant to this section may be held in conjunction with a regular election of the
11 governing body, general election, or a regular local or special election.

12 (4) If the qualified electors of an incorporated municipality, county, or consolidated city-county vote to
13 prohibit ~~adult-use~~ dispensaries from being located in the jurisdiction, the governing body shall enter the
14 prohibition into the records of the local government and notify the department of the election results.

15 (5) (a) If an election is held pursuant to this section in a county that contains within its limits a
16 municipality of more than 5,000 persons according to the most recent federal decennial census:

17 (i) it is not necessary for the registered qualified electors in the municipality to file a separate petition
18 asking for a separate or different vote on the question of whether to prohibit ~~adult-use~~ dispensaries from being
19 located in the municipality; and

20 (ii) the county shall conduct the election in a manner that separates the votes in the municipality from
21 those in the remaining parts of the county.

22 (b) If a majority of the qualified electors in the county, including the qualified electors in the
23 municipality, vote to prohibit ~~adult-use~~ dispensaries from being located in the county, the county may not allow
24 ~~adult-use~~ dispensaries to operate in the county.

25 (c) If a majority of the qualified electors in the municipality vote to prohibit ~~adult-use~~ dispensaries from
26 being located in the municipality, the municipality may not allow ~~adult-use~~ dispensaries to operate in the
27 municipality.

28 (d) Nothing contained in this subsection (5) prevents any municipality from having a separate election

1 under the terms of this section.

2 (6) (a) An incorporated municipality, county, or consolidated city-county that has voted to prohibit
3 ~~adult-use~~ dispensaries from being located in the jurisdiction may vote to discontinue the prohibition and to allow
4 the previously prohibited operations within the incorporated municipality, county, or consolidated city-county.

5 (b) A vote overturning a prohibition on operation of ~~adult-use~~ dispensaries is effective on the 90th day
6 after the local election is held.

7 (7) A local government may temporarily prohibit retail sales regulated under this chapter from being
8 located within its jurisdiction through local ordinance until an election can be held pursuant to this section.

9 (8) A local government may not prohibit the transportation of marijuana within or through its
10 jurisdiction on public roads by any person licensed to do so by the department or as otherwise allowed by this
11 chapter."

12

13 **Section 41.** Section 16-12-302, MCA, is amended to read:

14 **"16-12-302. (Effective ~~October 1, 2021~~ January 1, 2022) Fraudulent representation -- penalties.**

15 (1) In addition to any other penalties provided by law, an individual who fraudulently represents to a law
16 enforcement official that the individual is ~~an adult-use~~ a provider, ~~or an adult-use~~ marijuana-infused products
17 provider, or marijuana-infused products manufacturer is guilty of a civil fine not to exceed \$1,000.

18 (2) An individual convicted under this section may not be licensed as ~~an adult-use~~ a provider, ~~or adult-~~
19 ~~use~~ marijuana-infused products provider, or marijuana-infused products manufacturer under 16-12-203."

20

21 **Section 42.** Section 18-7-101, MCA, is amended to read:

22 **"18-7-101. Power to contract for printing -- exceptions.** (1) Except as provided in 1-11-301 ~~and 50-~~
23 ~~46-303, 16-12-104, and [section 3],~~ the department has exclusive power, subject to the approval of the
24 governor, to contract for all printing for any purpose used by the state in any state office (elective or appointive),
25 agency, or institution.

26 (2) The department shall supervise and attend to all public printing of the state as provided in this
27 chapter and shall prevent duplication and unnecessary printing.

28 (3) Unless otherwise provided by law, the department, in letting contracts as provided in this chapter,

1 for the printing, binding, and publishing of all laws, journals, and reports of the state agencies and institutions
2 may determine the quantity, quality, style, and grade of all such printing, binding, and publishing.

3 (4) The provisions of this chapter do not apply to the state compensation insurance fund for purposes
4 of external marketing or educational materials."
5

6 **Section 43.** Section 37-1-136, MCA, is amended to read:

7 **"37-1-136. Disciplinary authority of boards -- injunctions.** (1) Subject to 37-1-138, each licensing
8 board allocated to the department has the authority, in addition to any other penalty or disciplinary action
9 provided by law, to adopt rules specifying grounds for disciplinary action and rules providing for:

- 10 (a) revocation of a license;
- 11 (b) suspension of its judgment of revocation on terms and conditions determined by the board;
- 12 (c) suspension of the right to practice for a period not exceeding 1 year;
- 13 (d) placing a licensee on probation;
- 14 (e) reprimand or censure of a licensee; or
- 15 (f) taking any other action in relation to disciplining a licensee as the board in its discretion considers
16 proper.

17 (2) Any disciplinary action by a board shall be conducted as a contested case hearing under the
18 provisions of the Montana Administrative Procedure Act.

19 (3) Notwithstanding any other provision of law, a board may maintain an action to enjoin a person
20 from engaging in the practice of the occupation or profession regulated by the board until a license to practice is
21 procured. A person who has been enjoined and who violates the injunction is punishable for contempt of court.

22 ~~(4) An action may not be taken against a person who is in compliance with Title 50, chapter 46.~~

23 ~~(5)(4)~~ Rules adopted under subsection (1) must provide for the provision of public notice as required
24 by 37-1-311."
25

26 **Section 44.** Section 37-1-316, MCA, is amended to read:

27 **"37-1-316. Unprofessional conduct.** The following is unprofessional conduct for a licensee or
28 license applicant governed by this part:

- 1 (1) conviction, including conviction following a plea of nolo contendere, of a crime relating to or
2 committed during the course of the person's practice or involving violence, use or sale of drugs, fraud, deceit, or
3 theft, whether or not an appeal is pending;
- 4 (2) permitting, aiding, abetting, or conspiring with a person to violate or circumvent a law relating to
5 licensure or certification;
- 6 (3) fraud, misrepresentation, deception, or concealment of a material fact in applying for or assisting
7 in securing a license or license renewal or in taking an examination required for licensure;
- 8 (4) signing or issuing, in the licensee's professional capacity, a document or statement that the
9 licensee knows or reasonably ought to know contains a false or misleading statement;
- 10 (5) a misleading, deceptive, false, or fraudulent advertisement or other representation in the conduct
11 of the profession or occupation;
- 12 (6) offering, giving, or promising anything of value or benefit to a federal, state, or local government
13 employee or official for the purpose of influencing the employee or official to circumvent a federal, state, or local
14 law, rule, or ordinance governing the licensee's profession or occupation;
- 15 (7) denial, suspension, revocation, probation, fine, or other license restriction or discipline against a
16 licensee by a state, province, territory, or Indian tribal government or the federal government if the action is not
17 on appeal, under judicial review, or has been satisfied;
- 18 (8) failure to comply with a term, condition, or limitation of a license by final order of a board;
- 19 (9) revealing confidential information obtained as the result of a professional relationship without the
20 prior consent of the recipient of services, except as authorized or required by law;
- 21 (10) use of alcohol, a habit-forming drug, or a controlled substance as defined in Title 50, chapter 32,
22 to the extent that the use impairs the user physically or mentally in the performance of licensed professional
23 duties;
- 24 (11) having a physical or mental disability that renders the licensee or license applicant unable to
25 practice the profession or occupation with reasonable skill and safety;
- 26 (12) engaging in conduct in the course of one's practice while suffering from a contagious or infectious
27 disease involving serious risk to public health or without taking adequate precautions, including but not limited
28 to informed consent, protective gear, or cessation of practice;

1 (13) misappropriating property or funds from a client or workplace or failing to comply with a board rule
2 regarding the accounting and distribution of a client's property or funds;

3 (14) interference with an investigation or disciplinary proceeding by willful misrepresentation of facts,
4 by the use of threats or harassment against or inducement to a client or witness to prevent them from providing
5 evidence in a disciplinary proceeding or other legal action, or by use of threats or harassment against or
6 inducement to a person to prevent or attempt to prevent a disciplinary proceeding or other legal action from
7 being filed, prosecuted, or completed;

8 (15) assisting in the unlicensed practice of a profession or occupation or allowing another person or
9 organization to practice or offer to practice by use of the licensee's license;

10 (16) failing to report the institution of or final action on a malpractice action, including a final decision
11 on appeal, against the licensee or of an action against the licensee by a:

12 (a) peer review committee;

13 (b) professional association; or

14 (c) local, state, federal, territorial, provincial, or Indian tribal government;

15 (17) failure of a health care provider, as defined in 27-6-103, to comply with a policy or practice
16 implementing 28-10-103(3)(a);

17 (18) conduct that does not meet the generally accepted standards of practice. A certified copy of a
18 malpractice judgment against the licensee or license applicant or of a tort judgment in an action involving an act
19 or omission occurring during the scope and course of the practice is conclusive evidence of but is not needed to
20 prove conduct that does not meet generally accepted standards.

21 (19) the sole use of any electronic means, including teleconferencing, to obtain the information
22 required for the written certification and accompanying statements used to apply for a registry identification card
23 pursuant to ~~Title 50, chapter 46, part 3~~ sections 1 through 14."

24

25 **Section 45.** Section 37-3-203, MCA, is amended to read:

26 **"37-3-203. Powers and duties -- rulemaking authority.** (1) The board may:

27 (a) adopt rules necessary or proper to carry out the requirements in Title 37, chapter 3, parts 1

28 through 4, and of chapters covering podiatry, acupuncture, physician assistants, nutritionists, and emergency

1 care providers as set forth in Title 37, chapters 6, 13, 20, and 25, and 50-6-203, respectively. Rules adopted for
2 emergency care providers with an endorsement to provide community-integrated health care must address the
3 scope of practice, competency requirements, and educational requirements.

4 (b) hold hearings and take evidence in matters relating to the exercise and performance of the powers
5 and duties vested in the board;

6 (c) aid the county attorneys of this state in the enforcement of parts 1 through 4 and 8 of this chapter
7 as well as Title 37, chapters 6, 13, 20, and 25, and Title 50, chapter 6, regarding emergency care providers
8 licensed by the board. The board also may assist the county attorneys of this state in the prosecution of
9 persons, firms, associations, or corporations charged with violations of the provisions listed in this subsection
10 (1)(c).

11 (d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle
12 as provided in 87-2-803(11); and

13 (e) fund additional staff, hired by the department, to administer the provisions of this chapter, by
14 increasing license fees as necessary.

15 (2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees
16 who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by
17 habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by
18 mental illness or chronic physical illness.

19 (b) The board shall ensure that a licensee who is required or volunteers to participate in the medical
20 assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to
21 enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a
22 qualified treatment program outside the state unless the board finds that there is no qualified treatment program
23 in this state.

24 (3) (a) The board shall report annually on the number and types of complaints it has received
25 involving physician practices in providing written certification, as defined in ~~50-46-302~~ section 2, for the use of
26 marijuana for a debilitating medical condition provided for in ~~Title 50, chapter 46~~ sections 1 through 14. The
27 report must contain:

28 (i) the number of complaints received by the board pursuant to 37-1-308;

- 1 (ii) the number of complaints for which a reasonable cause determination was made pursuant to 37-1-
- 2 307;
- 3 (iii) the general nature of the complaints;
- 4 (iv) the number of investigations conducted into physician practices in providing written certification;
- 5 and
- 6 (v) the number of physicians disciplined by the board for their practices in providing written
- 7 certification for the use of marijuana for a debilitating medical condition.

8 (b) Except as provided in subsection (3)(c), the report may not contain individual identifying
9 information regarding the physicians about whom the board received complaints.

10 (c) For each physician against whom the board takes disciplinary action related to the physician's
11 practices in providing written certification for the use of marijuana for a debilitating medical condition, the report
12 must include:

- 13 (i) the name of the physician;
- 14 (ii) the general results of the investigation of the physician's practices; and
- 15 (iii) the disciplinary action taken against the physician.

16 (d) The board shall provide the report to the children, families, health, and human services interim
17 committee by August 1 of each year and shall make a copy of the report available on the board's website.

18 (4) The board may enter into agreements with other states for the purposes of mutual recognition of
19 licensing standards and licensing of physicians and emergency care providers from other states under the
20 terms of a mutual recognition agreement."

21

22 **Section 46.** Section 39-2-210, MCA, is amended to read:

23 "**39-2-210. Limitation on adverse action.** Except as provided in ~~50-46-320~~ 16-12-108, no adverse
24 action, including followup testing, may be taken by the employer if the employee presents a reasonable
25 explanation or medical opinion indicating that the original test results were not caused by illegal use of
26 controlled substances or by alcohol consumption. If the employee presents a reasonable explanation or
27 medical opinion, the test results must be removed from the employee's record and destroyed."

28

1 **Section 47.** Section 39-2-313, MCA, is amended to read:

2 **"39-2-313. Discrimination prohibited for use of lawful product during nonworking hours --**
3 **exceptions.** (1) For purposes of this section, "lawful product" means a product that is legally consumed, used,
4 or enjoyed and includes food, beverages, ~~and tobacco,~~ and marijuana.

5 (2) Except as provided in subsections (3) and (4), an employer may not refuse to employ or license
6 and may not discriminate against an individual with respect to compensation, promotion, or the terms,
7 conditions, or privileges of employment because the individual legally uses a lawful product off the employer's
8 premises during nonworking hours.

9 (3) Subsection (2) does not apply to:

10 (a) use of a lawful product, ~~including the use of marijuana for a debilitating medical condition as~~
11 ~~defined in 50-46-302,~~ that:

12 (i) affects in any manner an individual's ability to perform job-related employment responsibilities or
13 the safety of other employees; or

14 (ii) conflicts with a bona fide occupational qualification that is reasonably related to the individual's
15 employment;

16 (b) an individual who, on a personal basis, has a professional service contract with an employer and
17 the unique nature of the services provided authorizes the employer, as part of the service contract, to limit the
18 use of certain products; or

19 (c) an employer that is a nonprofit organization that, as one of its primary purposes or objectives,
20 discourages the use of one or more lawful products by the general public.

21 (4) An employer does not violate this section if the employer takes action based on the belief that the
22 employer's actions are permissible under an established substance abuse or alcohol program or policy,
23 professional contract, or collective bargaining agreement.

24 (5) An employer may offer, impose, or have in effect a health, disability, or life insurance policy that
25 makes distinctions between employees for the type or price of coverage based on the employees' use of a
26 product if:

27 (a) differential rates assessed against employees reflect actuarially justified differences in providing
28 employee benefits;

1 (b) the employer provides an employee with written notice delineating the differential rates used by
2 the employer's insurance carriers; and

3 (c) the distinctions in the type or price of coverage are not used to expand, limit, or curtail the rights or
4 liabilities of a party in a civil cause of action."

5

6 **Section 48.** Section 39-71-407, MCA, is amended to read:

7 **"39-71-407. (Temporary) Liability of insurers -- limitations.** (1) For workers' compensation
8 injuries, each insurer is liable for the payment of compensation, in the manner and to the extent provided in this
9 section, to an employee of an employer covered under plan No. 1, plan No. 2, and the state fund under plan
10 No. 3 that it insures who receives an injury arising out of and in the course of employment or, in the case of
11 death from the injury, to the employee's beneficiaries, if any.

12 (2) An injury does not arise out of and in the course of employment when the employee is:

13 (a) on a paid or unpaid break, is not at a worksite of the employer, and is not performing any specific
14 tasks for the employer during the break; or

15 (b) engaged in a social or recreational activity, regardless of whether the employer pays for any
16 portion of the activity. The exclusion from coverage of this subsection (2)(b) does not apply to an employee
17 who, at the time of injury, is on paid time while participating in a social or recreational activity or whose
18 presence at the activity is required or requested by the employer. For the purposes of this subsection (2)(b),
19 "requested" means the employer asked the employee to assume duties for the activity so that the employee's
20 presence is not completely voluntary and optional and the injury occurred in the performance of those duties.

21 (3) (a) Subject to subsection (3)(c), an insurer is liable for an injury, as defined in 39-71-119, only if
22 the injury is established by objective medical findings and if the claimant establishes that it is more probable
23 than not that:

24 (i) a claimed injury has occurred; or

25 (ii) a claimed injury has occurred and aggravated a preexisting condition.

26 (b) Proof that it was medically possible that a claimed injury occurred or that the claimed injury
27 aggravated a preexisting condition is not sufficient to establish liability.

28 (c) Objective medical findings are sufficient for a presumptive occupational disease as defined in 39-

1 71-1401 but may be overcome by a preponderance of the evidence.

2 (4) (a) An employee who suffers an injury or dies while traveling is not covered by this chapter
3 unless:

4 (i) the employer furnishes the transportation or the employee receives reimbursement from the
5 employer for costs of travel, gas, oil, or lodging as a part of the employee's benefits or employment agreement
6 and the travel is necessitated by and on behalf of the employer as an integral part or condition of the
7 employment; or

8 (ii) the travel is required by the employer as part of the employee's job duties.

9 (b) A payment made to an employee under a collective bargaining agreement, personnel policy
10 manual, or employee handbook or any other document provided to the employee that is not wages but is
11 designated as an incentive to work at a particular jobsite is not a reimbursement for the costs of travel, gas, oil,
12 or lodging, and the employee is not covered under this chapter while traveling.

13 (5) Except as provided in subsection (6), an employee is not eligible for benefits otherwise payable
14 under this chapter if the employee's use of alcohol or drugs not prescribed by a physician is the major
15 contributing cause of the accident.

16 (6) (a) An employee who has received written certification, as defined in ~~50-46-302~~ [section 2], from a
17 physician for the use of marijuana for a debilitating medical condition and who is otherwise eligible for benefits
18 payable under this chapter is subject to the limitations of subsections (6)(b) through (6)(d).

19 (b) An employee is not eligible for benefits otherwise payable under this chapter if the employee's use
20 of marijuana for a debilitating medical condition, as defined in ~~50-46-302~~ [section 2], is the major contributing
21 cause of the injury or occupational disease.

22 (c) Nothing in this chapter may be construed to require an insurer to reimburse any person for costs
23 associated with the use of marijuana for a debilitating medical condition, as defined in ~~50-46-302~~ [section 2].

24 (d) In an accepted liability claim, the benefits payable under this chapter may not be increased or
25 enhanced due to a worker's use of marijuana for a debilitating medical condition, as defined in ~~50-46-302~~
26 [section 2]. An insurer remains liable for those benefits that the worker would qualify for absent the worker's use
27 of marijuana for a debilitating medical condition.

28 (7) The provisions of subsection (5) do not apply if the employer had knowledge of and failed to

1 attempt to stop the employee's use of alcohol or drugs not prescribed by a physician. This subsection (7) does
2 not apply to the use of marijuana for a debilitating medical condition because marijuana is not a prescribed
3 drug.

4 (8) If there is no dispute that an insurer is liable for an injury but there is a liability dispute between two
5 or more insurers, the insurer for the most recently filed claim shall pay benefits until that insurer proves that
6 another insurer is responsible for paying benefits or until another insurer agrees to pay benefits. If it is later
7 proven that the insurer for the most recently filed claim is not responsible for paying benefits, that insurer must
8 receive reimbursement for benefits paid to the claimant from the insurer proven to be responsible.

9 (9) If a claimant who has reached maximum healing suffers a subsequent nonwork-related injury to
10 the same part of the body, the workers' compensation insurer is not liable for any compensation or medical
11 benefits caused by the subsequent nonwork-related injury.

12 (10) Except for cases of presumptive occupational disease as provided in 39-71-1401 and 39-71-1402,
13 an employee is not eligible for benefits payable under this chapter unless the entitlement to benefits is
14 established by objective medical findings that contain sufficient factual and historical information concerning the
15 relationship of the worker's condition to the original injury.

16 (11) (a) For occupational diseases, every employer enrolled under plan No. 1, every insurer under
17 plan No. 2, or the state fund under plan No. 3 is liable for the payment of compensation, in the manner and to
18 the extent provided in this chapter, to an employee of an employer covered under plan No. 1, plan No. 2, or the
19 state fund under plan No. 3 if the employee is diagnosed with a compensable occupational disease.

20 (b) The provisions of subsection (11)(a) apply to presumptive occupational disease if the employee is
21 diagnosed and meets the conditions of 39-71-1401 and 39-71-1402.

22 (12) An insurer is liable for an occupational disease only if the occupational disease:

23 (a) is established by objective medical findings; and

24 (b) arises out of or is contracted in the course and scope of employment. An occupational disease is
25 considered to arise out of or be contracted in the course and scope of employment if the events occurring on
26 more than a single day or work shift are the major contributing cause of the occupational disease in relation to
27 other factors contributing to the occupational disease. For the purposes of this subsection (12), an occupational
28 disease is not the same as a presumptive occupational disease.

1 (13) When compensation is payable for an occupational disease or a presumptive occupational
2 disease, the only employer liable is the employer in whose employment the employee was last injuriously
3 exposed to the hazard of the disease.

4 (14) When there is more than one insurer and only one employer at the time that the employee was
5 injuriously exposed to the hazard of the disease, the liability rests with the insurer providing coverage at the
6 earlier of:

7 (a) the time that the occupational disease or presumptive occupational disease was first diagnosed by
8 a health care provider; or

9 (b) the time that the employee knew or should have known that the condition was the result of an
10 occupational disease or a presumptive occupational disease.

11 (15) In the case of pneumoconiosis, any coal mine operator who has acquired a mine in the state or
12 substantially all of the assets of a mine from a person who was an operator of the mine on or after December
13 30, 1969, is liable for and shall secure the payment of all benefits that would have been payable by that person
14 with respect to miners previously employed in the mine if acquisition had not occurred and that person had
15 continued to operate the mine, and the prior operator of the mine is not relieved of any liability under this
16 section.

17 (16) As used in this section, "major contributing cause" means a cause that is the leading cause
18 contributing to the result when compared to all other contributing causes. (Void on occurrence of contingency--
19 sec. 7, Ch. 158, L. 2019.)

20 **39-71-407. (Effective on occurrence of contingency) Liability of insurers -- limitations.** (1) For
21 workers' compensation injuries, each insurer is liable for the payment of compensation, in the manner and to
22 the extent provided in this section, to an employee of an employer covered under plan No. 1, plan No. 2, and
23 the state fund under plan No. 3 that it insures who receives an injury arising out of and in the course of
24 employment or, in the case of death from the injury, to the employee's beneficiaries, if any.

25 (2) An injury does not arise out of and in the course of employment when the employee is:

26 (a) on a paid or unpaid break, is not at a worksite of the employer, and is not performing any specific
27 tasks for the employer during the break; or

28 (b) engaged in a social or recreational activity, regardless of whether the employer pays for any

1 portion of the activity. The exclusion from coverage of this subsection (2)(b) does not apply to an employee
2 who, at the time of injury, is on paid time while participating in a social or recreational activity or whose
3 presence at the activity is required or requested by the employer. For the purposes of this subsection (2)(b),
4 "requested" means the employer asked the employee to assume duties for the activity so that the employee's
5 presence is not completely voluntary and optional and the injury occurred in the performance of those duties.

6 (3) (a) An insurer is liable for an injury, as defined in 39-71-119, only if the injury is established by
7 objective medical findings and if the claimant establishes that it is more probable than not that:

- 8 (i) a claimed injury has occurred; or
- 9 (ii) a claimed injury has occurred and aggravated a preexisting condition.

10 (b) Proof that it was medically possible that a claimed injury occurred or that the claimed injury
11 aggravated a preexisting condition is not sufficient to establish liability.

12 (4) (a) An employee who suffers an injury or dies while traveling is not covered by this chapter
13 unless:

14 (i) the employer furnishes the transportation or the employee receives reimbursement from the
15 employer for costs of travel, gas, oil, or lodging as a part of the employee's benefits or employment agreement
16 and the travel is necessitated by and on behalf of the employer as an integral part or condition of the
17 employment; or

18 (ii) the travel is required by the employer as part of the employee's job duties.

19 (b) A payment made to an employee under a collective bargaining agreement, personnel policy
20 manual, or employee handbook or any other document provided to the employee that is not wages but is
21 designated as an incentive to work at a particular jobsite is not a reimbursement for the costs of travel, gas, oil,
22 or lodging, and the employee is not covered under this chapter while traveling.

23 (5) Except as provided in subsection (6), an employee is not eligible for benefits otherwise payable
24 under this chapter if the employee's use of alcohol or drugs not prescribed by a physician is the major
25 contributing cause of the accident.

26 (6) (a) An employee who has received written certification, as defined in ~~50-46-302~~ section 2, from a
27 physician for the use of marijuana for a debilitating medical condition and who is otherwise eligible for benefits
28 payable under this chapter is subject to the limitations of subsections (6)(b) through (6)(d).

1 (b) An employee is not eligible for benefits otherwise payable under this chapter if the employee's use
2 of marijuana for a debilitating medical condition, as defined in ~~50-46-302~~ [section 2], is the major contributing
3 cause of the injury or occupational disease.

4 (c) Nothing in this chapter may be construed to require an insurer to reimburse any person for costs
5 associated with the use of marijuana for a debilitating medical condition, as defined in ~~50-46-302~~ [section 2].

6 (d) In an accepted liability claim, the benefits payable under this chapter may not be increased or
7 enhanced due to a worker's use of marijuana for a debilitating medical condition, as defined in ~~50-46-302~~
8 [section 2]. An insurer remains liable for those benefits that the worker would qualify for absent the worker's use
9 of marijuana for a debilitating medical condition.

10 (7) The provisions of subsection (5) do not apply if the employer had knowledge of and failed to
11 attempt to stop the employee's use of alcohol or drugs not prescribed by a physician. This subsection (7) does
12 not apply to the use of marijuana for a debilitating medical condition because marijuana is not a prescribed
13 drug.

14 (8) If there is no dispute that an insurer is liable for an injury but there is a liability dispute between two
15 or more insurers, the insurer for the most recently filed claim shall pay benefits until that insurer proves that
16 another insurer is responsible for paying benefits or until another insurer agrees to pay benefits. If it is later
17 proven that the insurer for the most recently filed claim is not responsible for paying benefits, that insurer must
18 receive reimbursement for benefits paid to the claimant from the insurer proven to be responsible.

19 (9) If a claimant who has reached maximum healing suffers a subsequent nonwork-related injury to
20 the same part of the body, the workers' compensation insurer is not liable for any compensation or medical
21 benefits caused by the subsequent nonwork-related injury.

22 (10) An employee is not eligible for benefits payable under this chapter unless the entitlement to
23 benefits is established by objective medical findings that contain sufficient factual and historical information
24 concerning the relationship of the worker's condition to the original injury.

25 (11) For occupational diseases, every employer enrolled under plan No. 1, every insurer under plan
26 No. 2, or the state fund under plan No. 3 is liable for the payment of compensation, in the manner and to the
27 extent provided in this chapter, to an employee of an employer covered under plan No. 1, plan No. 2, or the
28 state fund under plan No. 3 if the employee is diagnosed with a compensable occupational disease.

1 (12) An insurer is liable for an occupational disease only if the occupational disease:
2 (a) is established by objective medical findings; and
3 (b) arises out of or is contracted in the course and scope of employment. An occupational disease is
4 considered to arise out of or be contracted in the course and scope of employment if the events occurring on
5 more than a single day or work shift are the major contributing cause of the occupational disease in relation to
6 other factors contributing to the occupational disease.

7 (13) When compensation is payable for an occupational disease, the only employer liable is the
8 employer in whose employment the employee was last injuriously exposed to the hazard of the disease.

9 (14) When there is more than one insurer and only one employer at the time that the employee was
10 injuriously exposed to the hazard of the disease, the liability rests with the insurer providing coverage at the
11 earlier of:

12 (a) the time that the occupational disease was first diagnosed by a health care provider; or

13 (b) the time that the employee knew or should have known that the condition was the result of an
14 occupational disease.

15 (15) In the case of pneumoconiosis, any coal mine operator who has acquired a mine in the state or
16 substantially all of the assets of a mine from a person who was an operator of the mine on or after December
17 30, 1969, is liable for and shall secure the payment of all benefits that would have been payable by that person
18 with respect to miners previously employed in the mine if acquisition had not occurred and that person had
19 continued to operate the mine, and the prior operator of the mine is not relieved of any liability under this
20 section.

21 (16) As used in this section, "major contributing cause" means a cause that is the leading cause
22 contributing to the result when compared to all other contributing causes."
23

24 **Section 49.** Section 41-5-216, MCA, is amended to read:

25 **"41-5-216. Disposition of youth court, law enforcement, and department records -- sharing and**
26 **access to records.** (1) Formal and informal youth court records, law enforcement records, and department
27 records that are not exempt from sealing under subsections (4) and (6) and that pertain to a youth covered by
28 this chapter must be physically sealed on the youth's 18th birthday. In those cases in which jurisdiction of the

1 court or any agency is extended beyond the youth's 18th birthday, the records must be physically sealed upon
2 termination of the extended jurisdiction.

3 (2) Except as provided in subsection (6), when the records pertaining to a youth pursuant to this
4 section are sealed, an agency, other than the department, that has in its possession copies of the sealed
5 records shall destroy the copies of the records. Anyone violating the provisions of this subsection is subject to
6 contempt of court.

7 (3) Except as provided in subsection (6), this section does not prohibit the destruction of records with
8 the consent of the youth court judge or county attorney after 10 years from the date of sealing.

9 (4) The requirements for sealed records in this section do not apply to medical records, fingerprints,
10 DNA records, photographs, youth traffic records, records in any case in which the youth did not fulfill all
11 requirements of the court's judgment or disposition, records referred to in 42-3-203, or the information referred
12 to in 46-23-508, in any instance in which the youth was required to register as a sexual offender pursuant to
13 Title 46, chapter 23, part 5.

14 (5) After formal and informal youth court records, law enforcement records, and department records
15 are sealed, they are not open to inspection except, upon order of the youth court, for good cause to:

- 16 (a) those persons and agencies listed in 41-5-215(2); and
- 17 (b) adult probation and parole staff preparing a presentence report on an adult with an existing sealed
18 youth court record.

19 (6) (a) When formal youth court records, law enforcement records, and department records are
20 sealed under subsection (1), the electronic records of the management information system maintained by the
21 office of court administrator and by the department relating to the youth whose records are being sealed must
22 be preserved for the express purpose of research and program evaluation.

23 (b) The department of public health and human services, the office of court administrator, and the
24 department shall disassociate the offense and disposition information from the name of the youth in the
25 respective management information system. The offense and disposition information must be maintained
26 separately and may be used only:

- 27 (i) for research and program evaluation authorized by the office of court administrator or by the
28 department and subject to any applicable laws; and

1 (ii) as provided in Title 5, chapter 13.

2 (7) (a) Informal youth court records for a youth for whom formal proceedings have been filed must be
3 physically sealed on the youth's 18th birthday or, in those cases in which jurisdiction of the court or any agency
4 is extended beyond the youth's 18th birthday, upon termination of the extended jurisdiction and may be
5 inspected only pursuant to subsection (5).

6 (b) The informal youth court records are confidential and may be shared only with those persons and
7 agencies listed in 41-5-215(2).

8 (c) Except as provided in subsection (7)(a), when a youth becomes 18 years of age or when extended
9 supervision ends and the youth was involved only in informal proceedings, informal youth court records that are
10 in hard-copy form must be destroyed and any electronic records in the youth court management information
11 system must disassociate the offense and disposition information from the name of the youth and may be used
12 only for the following purposes:

13 (i) for research and program evaluation authorized by the office of the court administrator and subject
14 to any applicable laws; and

15 (ii) as provided in Title 5, chapter 13.

16 (8) Nothing in this section prohibits the sharing of formal or informal youth court records within the
17 juvenile probation management information system to a person or agency listed in 41-5-215(2).

18 (9) This section does not prohibit the sharing of formal or informal youth court records within the
19 department's youth management information system. Electronic records of the department's youth
20 management information system may not be shared except as provided in subsection (5). A person or agency
21 receiving the youth court record shall destroy the record after it has fulfilled its purpose.

22 (10) This section does not prohibit the sharing of formal or informal youth court records with a short-
23 term detention center, a youth care facility, a youth assessment center, or a youth detention facility upon
24 placement of a youth within the facility.

25 (11) This section does not prohibit access to formal or informal youth court records, including
26 electronic records, for purposes of conducting evaluations as required by 41-5-2003 and studies conducted
27 between individuals and agencies listed in 41-5-215(2).

28 (12) This section does not prohibit the office of court administrator, upon written request from the

1 department of public health and human services, from confirming whether a person applying for a registry
2 identification card pursuant to ~~50-46-307~~ section 3 or a license pursuant to ~~50-46-308~~ 16-12-203 is currently
3 under youth court supervision."
4

5 **Section 50.** Section 45-9-101, MCA, is amended to read:

6 **"45-9-101. Criminal distribution of dangerous drugs.** (1) Except as provided in Title 16, chapter
7 12, ~~or Title 50, chapter 46~~, a person commits the offense of criminal distribution of dangerous drugs if the
8 person sells, barter, exchanges, gives away, or offers to sell, barter, exchange, or give away any dangerous
9 drug, as defined in 50-32-101.

10 (2) A person convicted of criminal distribution of dangerous drugs involving giving away or sharing
11 any dangerous drug, as defined in 50-32-101, shall be sentenced as provided in 45-9-102.

12 (3) A person convicted of criminal distribution of dangerous drugs not otherwise provided for in
13 subsection (1), (2), or (4) shall be imprisoned in the state prison for a term not to exceed 25 years or be fined
14 an amount of not more than \$50,000, or both.

15 (4) A person who was an adult at the time of distribution and who is convicted of criminal distribution
16 of dangerous drugs to a minor shall be sentenced as follows:

17 (a) For a first offense, the person shall be imprisoned in the state prison for a term not to exceed 40
18 years and may be fined not more than \$50,000.

19 (b) For a second or subsequent offense, the person shall be imprisoned in the state prison for a term
20 not to exceed life and may be fined not more than \$50,000.

21 (5) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
22 professional practice are exempt from this section."
23

24 **Section 51.** Section 45-9-102, MCA, is amended to read:

25 **"45-9-102. Criminal possession of dangerous drugs.** (1) Except as provided in Title 16, chapter
26 12, ~~or 50-32-609, or Title 50, chapter 46~~, a person commits the offense of criminal possession of dangerous
27 drugs if the person possesses any dangerous drug, as defined in 50-32-101, [in an amount] greater than
28 permitted or for which a penalty is not specified under Title 16, chapter 12.

1 (2) A person convicted of criminal possession of dangerous drugs shall be imprisoned in the state
2 prison for a term not to exceed 5 years or be fined an amount not to exceed \$5,000, or both.

3 (3) A person convicted of a first violation under this section is presumed to be entitled to a deferred
4 imposition of sentence of imprisonment.

5 (4) Ultimate users and practitioners, as defined in 50-32-101, and agents under their supervision
6 acting in the course of a professional practice are exempt from this section."

7

8 **Section 52.** Section 45-9-103, MCA, is amended to read:

9 **"45-9-103. Criminal possession with intent to distribute.** (1) Except as provided in Title 16,
10 chapter 12, ~~or Title 50, chapter 46,~~ a person commits the offense of criminal possession with intent to distribute
11 if the person possesses with intent to distribute any dangerous drug as defined in 50-32-101 [in an amount]
12 greater than permitted or for which a penalty is not specified under Title 16, chapter 12.

13 (2) A person convicted of criminal possession with intent to distribute shall be imprisoned in the state
14 prison for a term of not more than 20 years or be fined an amount not to exceed \$50,000, or both.

15 (3) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
16 professional practice are exempt from this section."

17

18 **Section 53.** Section 45-9-110, MCA, is amended to read:

19 **"45-9-110. Criminal production or manufacture of dangerous drugs.** (1) Except as provided in
20 Title 16, chapter 12, ~~or Title 50, chapter 46,~~ a person commits the offense of criminal production or manufacture
21 of dangerous drugs if the person knowingly or purposely produces, manufactures, prepares, cultivates,
22 compounds, or processes a dangerous drug, as defined in 50-32-101.

23 (2) A person convicted of criminal production or manufacture of dangerous drugs, as defined in 50-
24 32-101, shall be imprisoned in the state prison for a term of not more than 25 years and may be fined an
25 amount not to exceed \$50,000.

26 (3) A person convicted of production of marijuana or tetrahydrocannabinol in an amount greater than
27 permitted or for which a penalty is not specified under Title 16, chapter 12, ~~or Title 50, chapter 46,~~ or
28 manufacture without the appropriate license and endorsement pursuant to Title 16, chapter 12, ~~or Title 50,~~

1 ~~chapter 46~~, shall be imprisoned in the state prison for a term of not more than 5 years and may be fined an
 2 amount not to exceed \$5,000, except that if the total weight is more than a pound or the number of plants is
 3 more than 30, the person shall be imprisoned in the state prison for a term of not more than 25 years and may
 4 be fined an amount not to exceed \$50,000. "Weight" means the weight of the dry plant and includes the leaves
 5 and stem structure but does not include the root structure.

6 (4) Practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
 7 professional practice are exempt from this section."

8

9 **Section 54.** Section 45-9-127, MCA, is amended to read:

10 **"45-9-127. Carrying dangerous drugs on train -- penalty.** (1) Except as provided in Title 16,
 11 chapter 12, ~~or Title 50, chapter 46~~, a person commits the offense of carrying dangerous drugs on a train in this
 12 state if the person is knowingly or purposely in criminal possession of a dangerous drug and boards any train.

13 (2) A person convicted of carrying dangerous drugs on a train in this state is subject to the penalties
 14 provided in 45-9-102."

15

16 **Section 55.** Section 45-9-203, MCA, is amended to read:

17 **"45-9-203. Surrender of license.** (1) If a court suspends or revokes a driver's license under 45-9-
 18 202(2)(e), the defendant shall, at the time of sentencing, surrender the license to the court. The court shall
 19 forward the license and a copy of the sentencing order to the department of justice. The defendant may apply to
 20 the department for issuance of a probationary license under 61-2-302.

21 (2) If a person with a registry identification card issued pursuant to [section 3] or license issued
 22 pursuant to ~~50-46-307 or 50-46-308~~ 16-12-203 is convicted of an offense under this chapter, the court shall:

23 (a) at the time of sentencing, require the person to surrender the registry identification card; and

24 (b) notify the department of revenue or the department of public health and human services of the
 25 conviction in order for the department to carry out its duties under ~~50-46-330~~ 16-12-109 or [section 12] as
 26 applicable."

27

28 **Section 56.** Section 45-10-103, MCA, is amended to read:

1 **"45-10-103. Criminal possession of drug paraphernalia.** Except as provided in Title 16, chapter 12,
2 ~~or 50-32-609, or Title 50, chapter 46,~~ it is unlawful for a person to use or to possess with intent to use drug
3 paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process,
4 prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into
5 the human body a dangerous drug. A person who violates this section is guilty of a misdemeanor and upon
6 conviction shall be imprisoned in the county jail for not more than 6 months, fined an amount of not more than
7 \$500, or both. A person convicted of a first violation of this section is presumed to be entitled to a deferred
8 imposition of sentence of imprisonment."
9

10 **Section 57.** Section 45-10-107, MCA, is amended to read:

11 **"45-10-107. Exemptions.** The provisions of this part do not apply to:

12 (1) practitioners, as defined in 50-32-101, and agents under their supervision acting in the course of a
13 professional practice;

14 ~~(2) persons acting in compliance with Title 50, chapter 46;~~

15 ~~(3)~~(2) persons acting in compliance with Title 16, chapter 12; or

16 ~~(4)~~(3) persons acting as employees or volunteers of an organization, including a nonprofit community-
17 based organization, local health department, or tribal health department, that provides needle and syringe
18 exchange services to prevent and reduce the transmission of communicable diseases."
19

20 **Section 58.** Section 46-18-202, MCA, is amended to read:

21 **"46-18-202. Additional restrictions on sentence.** (1) The sentencing judge may also impose any of
22 the following restrictions or conditions on the sentence provided for in 46-18-201 that the judge considers
23 necessary to obtain the objectives of rehabilitation and the protection of the victim and society:

24 (a) prohibition of the offender's holding public office;

25 (b) prohibition of the offender's owning or carrying a dangerous weapon;

26 (c) restrictions on the offender's freedom of association;

27 (d) restrictions on the offender's freedom of movement;

28 (e) a requirement that the defendant provide a biological sample for DNA testing for purposes of Title

1 44, chapter 6, part 1, if an agreement to do so is part of the plea bargain;

2 (f) a requirement that the offender surrender any registry identification card issued under [section 3] or
3 license issued under ~~50-46-303~~ 16-12-203; or

4 (g) any other limitation reasonably related to the objectives of rehabilitation and the protection of the
5 victim and society.

6 (2) Whenever the sentencing judge imposes a sentence of imprisonment in a state prison for a term
7 exceeding 1 year, the sentencing judge may also impose the restriction that the offender is ineligible for parole
8 and participation in the supervised release program while serving that term. If the restriction is to be imposed,
9 the sentencing judge shall state the reasons for it in writing. If the sentencing judge finds that the restriction is
10 necessary for the protection of society, the judge shall impose the restriction as part of the sentence and the
11 judgment must contain a statement of the reasons for the restriction.

12 (3) If a sentencing judge requires an offender to surrender a registry identification card issued under
13 [section 3] or license issued under ~~50-46-303~~ 16-12-203, the court shall return the card or license to the
14 department of public health and human services or the department of revenue and provide the applicable
15 department with information on the offender's sentence. The department of public health and human services
16 shall revoke ~~the a~~ registry identification card for the duration of the sentence and shall return the card if the
17 offender successfully completes the terms of the sentence before the expiration date listed on the card."
18

19 **Section 59.** Section 50-46-303, MCA, is amended to read:

20 **"50-46-303. Medical marijuana registry -- department responsibilities -- issuance of cards and**
21 **licenses -- confidentiality.** (1) The department shall establish and maintain a registry of persons who receive
22 registry identification cards or licenses under this part. The department shall issue:

23 (a) registry identification cards to Montana residents who have debilitating medical conditions and
24 who submit applications meeting the requirements of this part;

25 (b) licenses:

26 (i) to persons who apply to operate as providers or marijuana-infused products providers and who
27 submit applications meeting the requirements of this part;

28 (ii) for dispensaries established by providers or marijuana-infused products providers; and

1 (iii) through the state laboratory, to testing laboratories that submit applications meeting the
2 requirements of this part; and

3 (c) endorsements for chemical manufacturing to a provider or a marijuana-infused products provider
4 who applies for a chemical manufacturing endorsement and meets requirements established by the department
5 by rule.

6 ~~(2) (a) An individual who obtains a registry identification card and indicates the individual will not use
7 the system of licensed providers and marijuana-infused products providers to obtain marijuana or marijuana-
8 infused products is authorized to cultivate, manufacture, possess, and transport marijuana as allowed by this
9 part.~~

10 ~~(b) An individual who obtains a registry identification card and indicates the individual will use the
11 system of licensed providers and marijuana-infused products providers to obtain marijuana or marijuana-
12 infused products is authorized to possess marijuana as allowed by this part.~~

13 ~~(c)(a)~~ A person who obtains a provider, marijuana-infused products provider, or dispensary license or
14 an employee of a licensed provider or marijuana-infused products provider is authorized to cultivate,
15 manufacture, possess, sell, and transport marijuana as allowed by this part.

16 ~~(d)(b)~~ A person who obtains a testing laboratory license or an employee of a licensed testing
17 laboratory is authorized to possess, test, and transport marijuana as allowed by this part.

18 (3) The department shall conduct criminal history background checks as required by 50-46-307 and
19 50-46-308 before issuing a license to a provider or marijuana-infused products provider.

20 (4) (a) Registry identification cards and licenses issued pursuant to this part must:

21 (i) be laminated and produced on a material capable of lasting for the duration of the time period for
22 which the card or license is valid;

23 (ii) state the name, address, and date of birth of the registered cardholder;

24 (iii) indicate whether the cardholder is obtaining marijuana and marijuana-infused products through the
25 system of licensed providers and marijuana-infused products providers;

26 (iv) indicate whether a provider or marijuana-infused products provider has an endorsement for
27 chemical manufacturing;

28 (v) state the date of issuance and the expiration date of the registry identification card or license;

- 1 (vi) contain a unique identification number; and
- 2 (vii) contain other information that the department may specify by rule.
- 3 (b) Except as provided in subsection (4)(c), in addition to complying with subsection (4)(a), registry
- 4 identification cards issued pursuant to this part must:
 - 5 (i) include a picture of the registered cardholder; and
 - 6 (ii) be capable of being used to track registered cardholder purchases.
- 7 (c) (i) The department shall issue temporary registry identification cards upon receipt of an
- 8 application. The cards are valid for 60 days and are exempt from the requirements of subsection (4)(b). Printing
- 9 of the temporary identification cards is exempt from the provisions of Title 18, chapter 7.
- 10 (ii) The cards may be issued before an applicant's payment of the fee has cleared. The department
- 11 shall cancel the temporary card after 60 days and may not issue a permanent card until the fee is paid.
- 12 (5) (a) The department or state laboratory, as applicable, shall review the information contained in an
- 13 application or renewal submitted pursuant to this part and shall approve or deny an application or renewal
- 14 within 30 days of receiving the application or renewal and all related application materials.
- 15 (b) If the department fails to act on a completed application within 30 days of receipt, the department
- 16 shall:
 - 17 (i) refund the fee paid by an applicant for a registry identification card;
 - 18 (ii) reduce the cost of the licensing fee for a new applicant for licensure or for a licensee seeking
 - 19 renewal of a license by ~~5%~~ 10% each week that the application is pending; and
 - 20 (iii) if a licensee is unable to operate because a license renewal application has not been acted on,
 - 21 reimburse the licensee 50% of the gross sales the licensee reported in the most recent quarter for the purpose
 - 22 of the tax provided for in 15-64-102.
- 23 (c) Applications that are not processed within 30 days of receipt remain active until the department
- 24 takes final action.
- 25 (d) An application for a license or renewal of a license is not considered complete until the department
- 26 has completed a satisfactory inspection as required by this part and related administrative rules.
- 27 (e) The department shall issue a registry identification card, license, or endorsement within 5 days of
- 28 approving an application or renewal.

1 (6) Review of a rejection of an application or renewal may be conducted as a contested case hearing
2 pursuant to the provisions of the Montana Administrative Procedure Act.

3 (7) (a) Registry identification cards expire 1 year after the date of issuance unless a physician has
4 provided a written certification stating that a card is valid for a shorter period of time.

5 (b) Licenses and endorsements issued to providers, marijuana-infused products providers, and
6 testing laboratories must be renewed annually.

7 (8) (a) A registered cardholder shall notify the department of any change in the cardholder's name,
8 address, or physician or change in the status of the cardholder's debilitating medical condition within 10 days of
9 the change.

10 ~~(b) A registered cardholder who possesses mature plants or seedlings under 50-46-319(1) shall notify~~
11 ~~the department of the location of the plants and seedlings or any change of location of plants or seedlings. The~~
12 ~~department shall provide the names and locations of cardholders who possess mature plants or seedlings to~~
13 ~~the local law enforcement agency having jurisdiction in the area in which the plants or seedlings are located.~~
14 ~~The law enforcement agency and its employees are subject to the confidentiality requirements of 50-46-332.~~

15 ~~(e)(b)~~ If a change occurs and is not reported to the department, the registry identification card is void.

16 (9) The department shall maintain a confidential list of individuals to whom the department has issued
17 registry identification cards. Except as provided in ~~subsections (8)(b) and subsection~~ (10), individual names and
18 other identifying information on the list must be confidential and are not subject to disclosure, except to:

19 (a) authorized employees of the department as necessary to perform the official duties of the
20 department;

21 (b) authorized employees of state or local government agencies, including law enforcement agencies,
22 only as necessary to verify that an individual is a lawful possessor of a registry identification card;

23 (c) a judge, magistrate, or other authorized judicial officer in response to an order requiring disclosure;
24 and

25 (d) another person or entity when the information pertains to a cardholder who has given written
26 consent to the release and has specified:

27 (i) the type of information to be released; and

28 (ii) the person or entity to whom it may be released.

1 (10) The department shall provide the names and phone numbers of providers and marijuana-infused
 2 products providers and the city, town, or county where registered premises and testing laboratories are located
 3 to the public on the department's website. The department may not disclose the physical location or address of
 4 a provider, marijuana-infused products provider, dispensary, or testing laboratory.

5 (11) The department may share only information about providers, marijuana-infused products
 6 providers, dispensaries, and testing laboratories with the department of revenue for the purpose of investigation
 7 and prevention of noncompliance with tax laws, including but not limited to evasion, fraud, and abuse. The
 8 department of revenue and its employees are subject to the confidentiality requirements of 15-64-111(1)."

9

10 **Section 60.** Section 50-46-307, MCA, is amended to read:

11 **"50-46-307. Individuals with debilitating medical conditions -- requirements -- minors --**

12 **limitations.** (1) Except as provided in subsections (2) through (5), the department shall issue a registry
 13 identification card to an individual with a debilitating medical condition who submits the following, in accordance
 14 with department rules:

- 15 (a) an application on a form prescribed by the department;
- 16 (b) an application fee or a renewal fee;
- 17 (c) the individual's name, street address, and date of birth;
- 18 (d) proof of Montana residency;
- 19 ~~(e) a statement that the individual will be cultivating marijuana and manufacturing marijuana-infused~~
 20 ~~products for the individual's use or will be obtaining marijuana or marijuana-infused products through the~~
 21 ~~system of licensed providers and marijuana-infused products providers;~~

22 ~~(f)~~(e) a statement, on a form prescribed by the department, that the individual will not divert to any
 23 other individual the marijuana or marijuana-infused products that the individual ~~cultivates, manufactures, or~~
 24 obtains for the individual's debilitating medical condition through the system of licensed providers and
 25 marijuana-infused products providers;

26 ~~(g)~~(f) the name of the individual's treating physician or referral physician and the street address and
 27 telephone number of the physician's office;

28 ~~(h)~~(g) the street address where the individual is cultivating marijuana or manufacturing marijuana-

1 infused products if the individual is cultivating marijuana or manufacturing marijuana-infused products for the
2 individual's own use; and

3 ~~(h)~~ the written certification and accompanying statements from the individual's treating physician or
4 referral physician as required pursuant to 50-46-310.

5 (2) The department shall issue a registry identification card to a minor if the materials required under
6 subsection (1) are submitted and the minor's custodial parent or legal guardian with responsibility for health
7 care decisions:

8 (a) provides proof of legal guardianship and responsibility for health care decisions if the individual is
9 submitting an application as the minor's legal guardian with responsibility for health care decisions; and

10 (b) signs and submits a written statement that:

11 (i) the minor's treating physician or referral physician has explained to the minor and to the minor's
12 custodial parent or legal guardian with responsibility for health care decisions the potential risks and benefits of
13 the use of marijuana;

14 (ii) indicates whether the parent or legal guardian will be obtaining marijuana or marijuana-infused
15 products for the minor through the system of licensed providers and marijuana-infused products providers; and

16 (iii) the minor's custodial parent or legal guardian with responsibility for health care decisions:

17 (A) consents to the use of marijuana by the minor;

18 (B) agrees to control the acquisition of marijuana and the dosage and frequency of the use of
19 marijuana by the minor;

20 (C) agrees that the minor will use only marijuana-infused products and will not smoke marijuana;

21 (c) if the parent or guardian will be serving as the minor's provider, undergoes background checks in
22 accordance with subsection (3). The parent or legal guardian shall pay the costs of the background check and
23 may not obtain a license as a marijuana-infused products provider if the parent or legal guardian does not meet
24 the requirements of 50-46-308.

25 (d) pledges, on a form prescribed by the department, not to divert to any individual any marijuana
26 cultivated or obtained for the minor's use in a marijuana-infused product.

27 (3) A parent serving as a minor's provider shall submit fingerprints to facilitate a fingerprint and
28 background check by the department of justice and federal bureau of investigation upon the minor's initial

1 application for a registry identification card and every 3 years after that. The department shall conduct a name-
2 based background check in years when a fingerprint background check is not required.

3 (4) An application for a registry identification card for a minor must be accompanied by the written
4 certification and accompanying statements required pursuant to 50-46-310 from a second physician in addition
5 to the minor's treating physician or referral physician.

6 (5) An individual may not be a registered cardholder if the individual is in the custody of or under the
7 supervision of the department of corrections or a youth court.

8 ~~(6) A registered cardholder who elects to obtain marijuana or marijuana-infused products through the
9 system of licensed providers and marijuana-infused products providers may not cultivate marijuana or
10 manufacture marijuana-infused products for the cardholder's use unless the registered cardholder is a licensed
11 provider or marijuana-infused products provider.~~

12 ~~(7) A registered cardholder may cultivate marijuana and manufacture marijuana-infused products as
13 allowed under 50-46-319 only:~~

14 ~~(a) at a property that is owned by the cardholder; or~~

15 ~~(b) with written permission of the property owner, at a property that is rented or leased by the
16 cardholder.~~

17 ~~(8) No portion of the property used for cultivation of marijuana and manufacture of marijuana-infused
18 products for use by the registered cardholder may be shared with or rented or leased to a provider, a
19 marijuana-infused products provider, or a registered cardholder unless the property is owned, rented, or leased
20 by cardholders who are related to each other by the second degree of kinship by blood or marriage."~~

21

22 **Section 61.** Section 50-46-319, MCA, is amended to read:

23 **"50-46-319. Legal protections -- allowable amounts.** (1) (a) A registered cardholder ~~who has~~
24 ~~elects to obtain marijuana and marijuana-infused products through the system of licensed providers and~~
25 ~~marijuana-infused products providers may:~~

26 (i) possess up to 1 ounce of usable marijuana; and

27 (ii) purchase a maximum of 5 ounces of usable marijuana a month and no more than 1 ounce of
28 usable marijuana a day.

1 ~~(b) (i) A registered cardholder who has elected not to use the system of licensed providers and~~
2 ~~marijuana-infused products providers may possess up to 4 mature plants, 4 seedlings, and the amount of~~
3 ~~usable marijuana allowed by the department by rule.~~

4 ~~(ii) If two or more registered cardholders share a residence and have elected not to use the system of~~
5 ~~licensed providers and marijuana-infused products providers, the cardholders may have a maximum of 8~~
6 ~~mature plants, 8 seedlings, and the amount of usable marijuana allowed by the department by rule. The limits in~~
7 ~~this subsection (1)(b)(ii) apply regardless of the location of the plants and seedlings.~~

8 ~~(iii) A registered cardholder who possesses mature plants or seedlings shall notify the department of~~
9 ~~the location of the plants and seedlings pursuant to 50-46-303(8)(b).~~

10 ~~(e)(b)~~ A provider or marijuana-infused products provider may have the canopy allowed by the
11 department for the provider or marijuana-infused products provider. The canopy allotment is a cumulative total
12 for all of the provider's or marijuana-infused products provider's registered premises and may not be interpreted
13 as an allotment for each premises.

14 ~~(d)(c)~~ (i) A registered cardholder may petition the department for an exception to the monthly limit on
15 purchases. The request must be accompanied by a confirmation from the physician who signed the
16 cardholder's written certification that the cardholder's debilitating medical condition warrants purchase of an
17 amount exceeding the monthly limit.

18 (ii) If the department approves an exception to the cap, the approval must establish the monthly
19 amount of usable marijuana that the cardholder may purchase and the limit must be entered into the seed-to-
20 sale tracking system.

21 (2) Except as provided in 50-46-320 and subject to the provisions of subsection (7) of this section, an
22 individual who possesses a registry identification card or license issued pursuant to this part may not be
23 arrested, prosecuted, or penalized in any manner or be denied any right or privilege, including but not limited to
24 civil penalty or disciplinary action by a professional licensing board or the department of labor and industry,
25 solely because:

26 (a) the person cultivates, manufactures, possesses, or transports marijuana in the amounts allowed
27 under this section; or

28 (b) the registered cardholder acquires or uses marijuana.

1 (3) A physician may not be arrested, prosecuted, or penalized in any manner or be denied any right or
2 privilege, including but not limited to civil penalty or disciplinary action by the board of medical examiners or the
3 department of labor and industry, solely for providing written certification for a patient with a debilitating medical
4 condition.

5 (4) Nothing in this section prevents the imposition of a civil penalty or a disciplinary action by a
6 professional licensing board or the department of labor and industry if:

- 7 (a) a registered cardholder's use of marijuana impairs the cardholder's job-related performance; or
- 8 (b) a physician violates the standard of care or other requirements of this part.

9 (5) (a) An individual may not be arrested or prosecuted for constructive possession, conspiracy as
10 provided in 45-4-102, or other provisions of law or any other offense solely for being in the presence or vicinity
11 of the use of marijuana and marijuana-infused products as permitted under this part.

12 (b) This subsection (5) does not prevent the arrest or prosecution of an individual who is in the vicinity
13 of a registered cardholder's use of marijuana if the individual is in possession of or is using marijuana and is not
14 a registered cardholder.

15 (6) Except as provided in 50-46-329, possession of or application for a license or registry identification
16 card does not alone constitute probable cause to search the person or individual or the property of the person
17 or individual or otherwise subject the person or individual or property of the person or individual possessing or
18 applying for the license or card to inspection by any governmental agency, including a law enforcement agency.

19 (7) The provisions of this section relating to protection from arrest or prosecution do not apply to an
20 individual unless the individual has obtained a license or registry identification card prior to an arrest or the filing
21 of a criminal charge. It is not a defense to a criminal charge that an individual obtains a license or registry
22 identification card after an arrest or the filing of a criminal charge.

23 (8) (a) A registered cardholder, a provider, or a marijuana-infused products provider is presumed to
24 be engaged in the use of marijuana as allowed by this part if the person:

- 25 (i) is in possession of a valid registry identification card or license; and
- 26 (ii) is in possession of an amount of marijuana that does not exceed the amount permitted under this
27 part.

28 (b) The presumption may be rebutted by evidence that the possession of marijuana was not for the

1 purpose of alleviating the symptoms or effects of a registered cardholder's debilitating medical condition."

2

3 **Section 62.** Section 61-11-101, MCA, is amended to read:

4 **"61-11-101. Report of convictions and suspension or revocation of driver's licenses --**

5 **surrender of licenses.** (1) If a person is convicted of an offense for which chapter 5 or chapter 8, part 8,
6 makes mandatory the suspension or revocation of the driver's license or commercial driver's license of the
7 person by the department, the court in which the conviction occurs shall require the surrender to it of all driver's
8 licenses then held by the convicted person. The court shall, within 5 days after the conviction, forward the
9 license and a record of the conviction to the department. If the person does not possess a driver's license, the
10 court shall indicate that fact in its report to the department.

11 (2) A court having jurisdiction over offenses committed under a statute of this state or a municipal
12 ordinance regulating the operation of motor vehicles on highways, except for standing or parking statutes or
13 ordinances, shall forward a record of the conviction, as defined in 61-5-213, to the department within 5 days
14 after the conviction. The court may recommend that the department issue a restricted probationary license on
15 the condition that the individual comply with the requirement that the person attend and complete a chemical
16 dependency education course, treatment, or both, as ordered by the court under 61-8-732.

17 (3) A court or other agency of this state or of a subdivision of the state that has jurisdiction to take any
18 action suspending, revoking, or otherwise limiting a license to drive shall report an action and the adjudication
19 upon which it is based to the department within 5 days on forms furnished by the department.

20 (4) (a) On a conviction referred to in subsection (1) of a person who holds a commercial driver's
21 license or who is required to hold a commercial driver's license, a court may not take any action, including
22 deferring imposition of judgment, that would prevent a conviction for any violation of a state or local traffic
23 control law or ordinance, except a parking law or ordinance, in any type of motor vehicle, from appearing on the
24 person's driving record. The provisions of this subsection (4)(a) apply only to the conviction of a person who
25 holds a commercial driver's license or who is required to hold a commercial driver's license and do not apply to
26 the conviction of a person who holds any other type of driver's license.

27 (b) For purposes of this subsection (4), "who is required to hold a commercial driver's license" refers
28 to a person who did not have a commercial driver's license but who was operating a commercial motor vehicle

1 at the time of a violation of a state or local traffic control law or ordinance resulting in a conviction referred to in
2 subsection (1).

3 (5) (a) If a person who holds a valid registry identification card issued pursuant to [section 3] or
4 license issued pursuant to ~~50-46-307 or 50-46-308~~ 16-12-203 is convicted of or pleads guilty to any offense
5 related to driving under the influence of alcohol or drugs when the initial offense with which the person was
6 charged was a violation of 61-8-401, 61-8-406, 61-8-410, or 61-8-411, the court in which the conviction occurs
7 shall require the person to surrender the registry identification card or license.

8 (b) Within 5 days after the conviction, the court shall forward the registry identification card and a copy
9 of the conviction to the department of public health and human services."
10

11 **Section 63.** Section 56, Initiative Measure No. 190, approved November 3, 2020, is amended to read:

12 "**Section 56. Effective dates.** (1) [Sections 8, 16, 23, 36, and 40 through 49] are effective January 1,
13 2021.

14 (2) Except as provided in subsection (1), [this act] is effective ~~on October 1, 2021~~ January 1, 2022.
15

16 NEW SECTION. **Section 64. Repealer.** The following sections of the Montana Code Annotated are
17 repealed:

- 18 16-12-401. (Effective October 1, 2021) Tax on marijuana sales.
- 19 16-12-402. (Effective October 1, 2021) Returns -- payment -- recordkeeping -- authority of department.
- 20 16-12-403. (Effective October 1, 2021) Deficient assessment -- penalty and interest -- statute of limitations.
- 21 16-12-404. (Effective October 1, 2021) Procedure to compute tax in absence of statement -- estimation of
22 tax -- failure to file -- penalty and interest.
- 23 16-12-405. (Effective October 1, 2021) Authority to collect delinquent taxes.
- 24 16-12-406. (Effective October 1, 2021) Refunds -- interest -- limitations.
- 25 16-12-407. (Effective October 1, 2021) Information -- confidentiality -- agreements with another state.
- 26 16-12-408. (Effective October 1, 2021) Department to make rules.
- 27 50-46-301. Short title -- purpose.
- 28 50-46-302. Definitions.

- 1 50-46-303. Medical marijuana registry — department responsibilities -- issuance of cards and licenses --
- 2 confidentiality.
- 3 50-46-304. Department responsibility to monitor and assess medical marijuana production, testing, and
- 4 sales -- license revocation.
- 5 50-46-305. Canopy tiers -- requirements.
- 6 50-46-307. Individuals with debilitating medical conditions -- requirements -- minors -- limitations.
- 7 50-46-308. Provider types -- requirements -- limitations -- activities.
- 8 50-46-309. Marijuana-infused products provider -- requirements -- allowable activities.
- 9 50-46-310. Written certification -- accompanying statements.
- 10 50-46-311. Testing laboratories -- licensing inspections.
- 11 50-46-312. License as privilege -- criteria.
- 12 50-46-313. Terminated.
- 13 50-46-317. Registry card or license to be exhibited on demand -- photo identification required.
- 14 50-46-318. Health care facility procedures for patients with marijuana for use.
- 15 50-46-319. Legal protections -- allowable amounts.
- 16 50-46-320. Limitations of act.
- 17 50-46-326. Testing of marijuana and marijuana-infused products.
- 18 50-46-327. Prohibitions on physician affiliation with providers and marijuana-infused products providers --
- 19 sanctions.
- 20 50-46-328. Local government authority to regulate.
- 21 50-46-329. Inspections -- procedures -- prohibition on inspector affiliation with licensees.
- 22 50-46-330. Unlawful conduct by cardholders or licensees -- penalties.
- 23 50-46-331. Fraudulent representation -- penalties.
- 24 50-46-332. Confidentiality of registry information -- penalty.
- 25 50-46-339. Law enforcement authority.
- 26 50-46-340. Forfeiture.
- 27 50-46-341. Advertising prohibited.
- 28 50-46-342. Hotline.

- 1 50-46-343. Legislative monitoring.
- 2 50-46-344. Rulemaking authority -- fees.
- 3 50-46-345. Medical marijuana state special revenue account -- operating reserve -- transfer of excess
- 4 funds.
- 5 50-46-346. Pain management education and treatment special revenue account.
- 6 50-46-347. Provider licensing fees.

7

8 **NEW SECTION. Section 65. Direction to department of revenue and department of public**

9 **health and human services -- notification to legislature -- transition.** (1) The legislature directs the
10 department of revenue to adopt rules to implement the Marijuana Regulation and Taxation Act.

11 (2) The legislature directs the department of public health and human services to assist the
12 department of revenue with the transfer of FTE, information, materials, and any other marijuana-related asset
13 that the department of revenue considers necessary to implement the regulation and taxation of marijuana in
14 the state and exercise authority over the regulation of all types of marijuana licenses in the state.

15 (3) (a) The department of public health and human services shall assist the department of revenue in
16 processing transfer applications submitted pursuant to [section 30] by providing certificates of good standing for
17 licensees and any other assistance required by the department of revenue.

18 (b) On December 31, 2021, the department of public health and human services shall transfer to the
19 department of revenue the existing license for any provider or marijuana-infused products provider that was
20 licensed pursuant to Title 50, chapter 46, part 3, on November 3, 2020, and is in good standing with the
21 department of public health and human services, and rules adopted by the department of revenue pursuant to
22 the Marijuana Regulation and Taxation Act as of December 31, 2021.

23 (c) Existing licenses must be accepted and administered by the department of revenue until those
24 licenses expire or are canceled, reduced, modified, revoked, or renewed by the department.

25 (4) A provider, marijuana-infused products provider, or dispensary whose license is transferred
26 pursuant to subsection (3) may sell marijuana to consumers, as defined in 16-12-102, at the adult-use
27 marijuana tax rate set forth in 15-64-102(1)(b)(i) beginning on April 1, 2022.

28

